

2004 Regular Session
4r1654
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By: Chairman, Judiciary Committee (By Request - Maryland Judicial
Conference)

Introduced and read first time: February 11, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Permanency for Families and Children Act of 2004

3 FOR the purpose of revising substantively the laws relating to termination of
4 parental rights, guardianship, and adoption; altering certain statements of
5 findings and purposes; altering certain provisions relating to foreign orders;
6 altering certain provisions relating to paternity; providing for agreements on
7 postadoption contact; clarifying and altering certain provisions relating to the
8 appointment of counsel in certain cases; altering certain provisions relating to
9 the assessment of costs; imposing certain costs for genetic testing on local
10 departments of social services under certain circumstances; altering certain
11 provisions relating to appeals; revising certain requirements for petitions and
12 petitioners; requiring a clerk of a juvenile court to keep a listing of certain
13 addresses; altering certain provisions relating to consent to a guardianship or
14 adoption; restating and altering provisions relating to notices of filings and
15 service of show cause orders; restating and altering certain provisions relating
16 to granting petitions for guardianship and adoption; revising certain
17 guardianship review procedures; repealing a certain religious exemption;
18 restating and altering certain time limits; requiring the dismissal of a certain
19 petition under certain circumstances; delineating procedures for voluntary
20 agency guardianship and adoption; delineating the contents and effect of certain
21 orders; delineating the authority of courts during a guardianship; prohibiting a
22 court from entering a certain order until the petitioner files a certain
23 accounting; restating and revising certain provisions concerning review
24 hearings; establishing certain procedures for failed conditional placements
25 during a guardianship; revising certain provisions relating to the termination of
26 a guardianship; restating provisions relating to records; restating and altering
27 provisions relating to prohibited payments; specifying venue for purposes of
28 certain guardianship and adoption proceedings; providing for the construction of
29 a termination of parental rights as voluntary under certain circumstances;
30 altering provisions relating to the waiver of reasonable reunification efforts in a
31 child in need of assistance proceeding; requiring the Department of Human
32 Resources to maintain a website for certain postings; requiring certain
33 documents in proceedings relating to children in need of assistance to contain
34 information about the website; clarifying a duty of a juvenile court clerk to keep

1 a listing of parental addresses; altering provisions relating to the duty of the
2 Public Defender to provide legal representation in certain guardianship and
3 adoption cases; expanding the categories of children whom volunteers assist
4 under the Court-Appointed Special Advocate program; recodifying a provision
5 relating to the construction of certain terms in written instruments; defining
6 certain terms; altering certain definitions; making certain conforming changes;
7 making stylistic changes; and generally relating to termination of parental
8 rights, guardianship, and adoption.

9 BY renumbering

10 Article - Family Law

11 Section 1-101(b), (c), (d), (f), and (g); ~~5-3A-01 through 5-3A-07 and the subtitle~~

12 ~~"Subtitle 3A. Access to Birth and Adoption Records"; and 5-329 and~~

13 ~~5-329.1, respectively~~

14 to be Section 1-101(d), (e), (h), (j), and (k); ~~5-4D-01 through 5-4D-07 and the~~

15 ~~subtitle "Subtitle 4D. Access to Birth and Adoption Records"; and 5-4E-01~~

16 ~~and 5-4E-02 to be under the new subtitle "Subtitle 4E. Medical Records~~

17 ~~for Adoptees", respectively~~

18 Annotated Code of Maryland

19 (1999 Replacement Volume and ~~2003~~ 2004 Supplement)

20 BY repealing

21 Article - Family Law

22 Section 5-301 through 5-328 and the subtitle "Subtitle 3. Adoption and

23 Guardianship With the Right to Consent to Adoption", ~~5-3A-01 through 5-3A-07 and the subtitle "Subtitle~~

24 ~~3A. Access to Birth and Adoption Records", 5-401(c), 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l), 5-559(b), 5-586(b), 5-701(f),~~

25 ~~5-705.1(a), 5-1201(d) and (f), and 6-101(b)~~

26 Annotated Code of Maryland

27 (1999 Replacement Volume and ~~2003~~ 2004 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article 27A - Public Defender

30 Section 4(b)(5) and (d)

31 Annotated Code of Maryland

32 (2003 Replacement Volume and 2004 Supplement)

33 BY adding to

34 Article 88A - Department of Human Resources

35 Section 18

36 Annotated Code of Maryland

37 (2003 Replacement Volume and 2004 Supplement)

38 BY repealing and reenacting, with amendments,

39 Article - Courts and Judicial Proceedings

40 Section 3-801(p), 3-802(a)(5), 3-810(a), 3-812(a)(2) and (b) and (d), 3-820(c)(2), 3-822(d),

1 3-823(i)(1), 3-830(b)(2), 5-106(r), and 6-203
 2 Annotated Code of Maryland
 3 (2002 Replacement Volume and ~~2003~~ 2004 Supplement)

4 BY adding to
 5 Article - Courts and Judicial Proceedings
 6 Section 3-812(f)
 7 Annotated Code of Maryland
 8 (2002 Replacement Volume and ~~2003~~ 2004 Supplement)

9 BY adding to
 10 Article - Estates and Trusts
 11 Section 4-414
 12 Annotated Code of Maryland
 13 (2001 Replacement Volume and ~~2003~~ 2004 Supplement)

14 BY adding to
 15 Article - Family Law
 16 Section 1-101(b), (c), (f), and (g); 5-301 through ~~5-357~~ 5-362 to be under the new
 17 subtitle "Subtitle 3. Adoption Without or After Public Guardianship";
 18 5-3A-01 through ~~5-3A-38~~ 5-3A-41 to be under the new subtitle "Subtitle 3A.
 19 Voluntary Agency Guardianship and Adoption"; and 5-3B-01 through
 20 ~~5-3B-27~~ 5-3B-32 to be under the new subtitle "Subtitle 3B. Independent Adoption"
 21 Annotated Code of Maryland
 22 (1999 Replacement Volume and ~~2003~~ 2004 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article - Family Law
 25 Section 1-101(e), 4-402(a), 4-403(a) and (b)(1), 4-501(k), 5-101, 5-401,
 26 5-407(c), 5-410.1, 5-412, 5-4A-01(b), 5-4B-01(b), 5-4B-02(d),
 27 5-4C-01(b), 5-4C-06(a)(1)(vii) and (ix), 5-4C-07(c), 5-501(b), 5-504(a)(2),
 28 5-506(b), (c), and (e), 5-517, 5-525(d)(1) and (e)(1), 5-525.1(b)(1)(iii),
 29 5-526(a)(1), (b), and (c), 5-527(a), (b)(1), and (c), 5-528, 5-530(a), 5-550(a),
 30 5-551, 5-553(c), ~~5-554(b)(2)~~, 5-554.1(a), (c)(1), (3), and (4), and (e)(1), 5-555(a) and (c),
 31 5-559.1, 5-559.2(a), 5-559.3(b)(1), 5-559.4(a), 5-559.5(a) and (b)(4), (5),
 32 and (8), 5-559.6, 5-559.7(a) and (b), 5-559.8, 5-561(c), (e), and (i)(2),
 33 5-562(a)(3), 5-563(b)(3), 5-564(a)(2)(iii) and (d)(4), 5-567, 5-570(d) and
 34 (g), 5-574(a) and (b)(3)(ii), 5-575(a) and (b)(4), 5-576, 5-577(b), ~~5-578(b) and (c)~~, 5-580(a),
 35 5-580.1(a), (c)(1), (3), and (4), and (e)(1), 5-582, 5-584(a) and (c)(1),
 36 5-587(a) and (b), 5-588(a), (b), (c)(2), and (f)(1), 5-589(c) and (e)(1), ~~5-590(b)~~,
 37 5-592(e)(3), 5-593, 5-594.1, 5-594.2(a), 5-594.3(b)(1), 5-594.4, 5-594.5(a)
 38 and (b)(5) and (7), 5-594.6, 5-594.7(a) and (b), 5-701(c), (d)(1), (o), and
 39 (o-1), 5-706(e), 5-706.1(b)(4), 5-706.3(a), 5-710(c), 5-712(b)(1), 5-713(a),
 40 5-714(b)(1), (c)(1), (e), and (f)(2), 5-1001(b), 5-1102(a)(1) and (c),
 41 5-1202(a)(4) and (6), 5-1203, 6-103(a), 9-402(b)(4), 10-114(a)(3), and
 42 14-101(j)

1 Annotated Code of Maryland
2 (1999 Replacement Volume and ~~2003~~ 2004 Supplement)

3 BY adding to
4 Article - Real Property
5 Section 2-123
6 Annotated Code of Maryland
7 (2003 Replacement Volume and ~~2003~~ 2004 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 1-101(b), (c), (d), (f), and (g); ~~5-3A-01 through 5-3A-07~~
10 ~~and the subtitle "Subtitle 3A. Access to Birth and Adoption Records"; and 5-329 and~~
11 ~~5-329.1~~, respectively, of Article - Family Law of the Annotated Code of Maryland be
12 renumbered to be Section(s) 1-101(d), (e), (h), (j), and (k); 5-4D-01 through 5-4D-07
13 ~~and the subtitle "Subtitle 4D. Access to Birth and Adoption Records"; and 5-4E-01~~
14 ~~and 5-4E-02 to be under the new subtitle "Subtitle 4E. Medical Records for~~
15 ~~Adoptees"~~, respectively.

16 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-301
17 through 5-328 and the subtitle "Subtitle 3. Adoption and Guardianship With the
18 Right to Consent to Adoption", ~~5-3A-01 through 5-3A-07 and the subtitle "Subtitle 3A. Access to Birth and Adoption Records",~~
5-401(c), 5-4B-01(c), 5-4C-01(f), 5-501(c) and (l),
19 5-559(b), 5-586(b), 5-701(f), 5-705.1(a), 5-1201(d) and (f), and 6-101(b) of Article -
20 Family Law of the Annotated Code of Maryland be repealed.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 Article 27A - Public Defender

24 4.

25 (b) Legal representation shall be provided indigent defendants or parties in
26 the following proceedings:

27 (5) [An involuntary termination of parental rights proceeding or a
28 hearing under § 5-319 of the Family Law Article, if the party is entitled to Public
29 Defender representation under § 5-323] AS TO A PARENT, A HEARING IN
30 CONNECTION WITH GUARDIANSHIP OR ADOPTION UNDER **TITLE 5, SUBTITLE 3, PART**
31 **II OR III of the Family Law Article.**

32 (d) Representation by the Office of the Public Defender[,] or [by] an attorney
33 appointed by the Office [of the Public Defender, shall]:

34 (1) SHALL extend to all stages in the proceedings[, including custody]:

35 (I) INCLUDING CUSTODY **IN CRIMINAL PROCEEDINGS**, interrogation, preliminary hearing,
36 arraignment, trial, [a hearing in an involuntary termination of parental rights
37 proceeding, a hearing under § 5-319 of the Family Law Article,] and appeal, if any[,];

1 (II) AS PROVIDED IN **§ 3-813 OF THE COURTS ARTICLE**; AND

2 (III) UNDER **TITLE 5, SUBTITLE 3, PART II OR III OF THE FAMILY LAW**
3 **ARTICLE**, INCLUDING:

4 1. A HEARING IN CONNECTION WITH A GUARDIANSHIP
5 CASE;

6 2. A HEARING UNDER **§ 5-326 OF THE FAMILY LAW ARTICLE**
7 FOR WHICH THE PARENT HAS NOT WAIVED THE RIGHT TO NOTICE;

8 3. A HEARING IN CONNECTION WITH AN ADOPTION CASE;
9 AND

10 4. AN APPEAL; and [shall]

11 (2) SHALL continue until [the]:

12 (I) THE final disposition of the cause[.]; or [until the]

13 (II) THE assigned attorney is relieved by the Public Defender or by
14 order of the court in which the cause is pending.

COMMITTEE NOTE: Chapter (SB /HB), Acts of 2005, amended provisions of this section to reflect that a parent has the right to participate in hearing after termination of parental rights if the parent's child has not been adopted. See In Re Adoption/Guardianship Nos. 11387 & 11388, 354 Md. 574, 731 A.2d 972 (1999).

In subsection (d)(1)(i) of this section, the phrase "in criminal proceedings" was added at the request of the Office of the Public Defender.

15 Article 88A - Department of Human Resources

16 18.

17 THE DEPARTMENT OF HUMAN RESOURCES SHALL MAINTAIN A WEBSITE ON
18 WHICH TO POST NOTICES OF PETITIONS UNDER **§§ 5-316(F)(3)(II), 5-3A-15D(3)(II), AND**
19 **5-3B-15(D)(3)(II) OF THE FAMILY LAW ARTICLE.**

20 Article - Courts and Judicial Proceedings

21 3-801.

22 (p) "Local department" means [the]:

23 (1) THE local department of social services for the county in which the
24 court is located; OR

25 (2) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT OF HEALTH
26 AND HUMAN SERVICES.

27 3-802.

28 (a) The purposes of this subtitle are:

29 (5) Except as otherwise provided by law, to hold the local department [of
30 social services] responsible for providing services to assist the parents with
31 remedying the circumstances that required the court's intervention;

1 3-810.

2 (a) (1) Except as otherwise provided in this subtitle, the Maryland Rules
3 govern the format of a petition and of other pleadings and the procedures to be
4 followed by the court and parties under this subtitle.

5 (2) EACH DOCUMENT THAT A LOCAL DEPARTMENT SERVES ON A
6 PARENT UNDER THIS SUBTITLE SHALL INCLUDE INFORMATION ABOUT THE
7 WEBSITE THAT THE DEPARTMENT OF HUMAN RESOURCES MAINTAINS UNDER
8 **ARTICLE 88A, § 18 OF THE CODE.**

9 3-812.

(a) (2) "Crime of violence" [has]:

(I) the meaning stated in § 14-101 of the Criminal Law Article; OR

(II) **AS TO A CRIME COMMITTED IN ANOTHER STATE, MEANS A CRIME THAT, IF
COMMITTED IN THIS STATE, WOULD BE A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW
ARTICLE.**

10 (b) In a petition under this subtitle, a local department may ask the court to
11 find that reasonable efforts to reunify a child with the child's [natural] parent or
12 guardian are not required if the local department concludes that a [natural] parent
13 or guardian has:

14 (1) Subjected the child to:

15 (i) Chronic abuse;

16 (ii) Chronic and life-threatening neglect;

17 (iii) Sexual abuse; or

18 (iv) Torture;

19 (2) Been convicted, **IN ANY STATE OR ANY COURT OF THE UNITED STATES, OF:**

20 (i) **[In this State of] a crime of violence against A MINOR OFFSPRING OF THE PARENT, the**
child, [the other
21 {natural} **OR ANOTHER** parent of the child[, another child of the {natural} parent, or any individual
22 who resides in the household of the {natural} parent];

23 (ii) **[In any state or in any court of the United States of a crime that**
24 **would be a crime of violence if committed in this State, against the child, the other**
25 **natural} parent of the child, another child of the natural} parent, or any individual**
26 **who resides in the household of the natural} parent; or**

27 (iii) **Of aiding] AIDING** or abetting, conspiring, or soliciting to commit a crime
28 described in subitem (i) [or (ii)] of this item; or

29 (3) Involuntarily lost parental rights of a sibling of a child.

30 (d) If the court finds by clear and convincing evidence that any of the
31 circumstances specified in **subsection (b) of this section** exists, the court shall waive
32 the requirement that reasonable efforts be made to reunify the child with the child's
33 [natural] parent or guardian.

1 (F) IF A PARENT CONSENTS TO GUARDIANSHIP OR ADOPTION IN
2 ACCORDANCE WITH **§ 5-320 OR § 5-337 5-338 OF THE FAMILY LAW ARTICLE**, LOSS OF
3 PARENTAL RIGHTS SHALL BE CONSIDERED VOLUNTARY.

4 3-820.

5 (c) (2) The motion shall set forth [the]:

6 (I) THE facts on which the LOCAL department relied in removing
7 the [child] CHILD; and [the]

8 (II) THE identity of [any witnesses] **EACH WITNESS**.

9 3-822.

10 (d) On request of a local department, the clerk's office shall disclose to the
11 local department all addresses listed by a parent of a CINA within the preceding [9
12 months] 270 DAYS, for the purpose of attempting [notification of a petition] SERVICE
13 OF A SHOW CAUSE ORDER for guardianship [with the right to consent to adoption or
14 long-term care short of adoption] UNDER **§ 5-316 OF THE FAMILY LAW ARTICLE**.

15 3-823.

16 (i) (1) In **this subsection**, "preadoptive parent" means an individual whom a
17 child placement agency, as defined in [§ 5-301] **§ 5-101 of the Family Law Article**,
18 approves to adopt a child who has been placed in the individual's home for adoption
19 before the [final {decree}] ORDER of adoption.

20 3-830.

21 (b) (2) The purpose of the Program is to provide volunteers whose primary
22 purpose is to ensure [that children who are the subject of a CINA proceeding are
23 provided with] PROVISION OF appropriate service and case planning [that is in
24 their] CONSISTENT WITH THE best [interest] **INTERESTS OF A CHILD WHO IS THE SUBJECT OF:**

25 (I) ~~A CHILD WHO IS THE SUBJECT OF A CINA PROCEEDING; OR~~

26 (II) ~~A CHILD WHO IS THE SUBJECT OF A GUARDIANSHIP~~
27 PROCEEDING UNDER **TITLE 5, SUBTITLE 3 OF THE FAMILY LAW ARTICLE**.

28 5-106.

29 (r) A prosecution for an offense of unlawfully charging or receiving
30 compensation in connection with an adoption under [§ 5-327] **§ 5-357 5-362, § 5-3A-38 5-3A-41, OR §**
31 **5-3B-27 5-3B-32 of the Family Law Article** shall be instituted within 3 years after the offense
32 was committed.

33 6-203.

34 (a) The general rule of **§ 6-201 OF THIS SUBTITLE** does not apply to actions
35 enumerated in this section.

1 (b) (1) The venue of the following actions is in the county where all or any
2 portion of the subject matter of the action is located:

- 3 [(1)] (I) Partition of real estate;
4 [(2)] (II) Enforcement of a charge or lien on land;
5 [(3)] (III) Eminent domain;
6 [(4)] (IV) Trespass to land; and
7 [(5)] (V) Waste.

8 [(c)] (2) If the property lies in more than one county, the court [in which] WHERE
9 proceedings are first brought has jurisdiction over the entire property.

10 [(d)] (C) The venue of an action to recover damages against a railroad
11 company for injury to livestock is the county where the injury occurred.

12 (D) ~~(H)~~ THE VENUE OF AN ACTION FOR GUARDIANSHIP UNDER TITLE 5,
13 SUBTITLE 3 OF THE FAMILY LAW ARTICLE IS IN THE COUNTY WHERE THE COURT HAS
14 JURISDICTION OVER THE CHILD IN NEED OF ASSISTANCE CASE UNDER TITLE 3,
15 SUBTITLE 8 OF THIS ARTICLE.

16 ~~f(e)†~~ ~~(2)~~ (1) [The] EXCEPT AS PROVIDED IN PARAGRAPHS ~~(3)~~ (2) AND ~~(4)~~ (3) OF THIS
17 SUBSECTION, THE venue for a proceeding for adoption of [a person] AN INDIVIDUAL
18 who is physically within [the] THIS State or subject to the jurisdiction of an equity
19 court is in a county [in which] WHERE:

- 20 [(1)] (I) The petitioner is domiciled;
21 [(2)] (II) The petitioner has resided for at least 90 days next preceding
22 the filing of the petition;
23 [(3)] (III) A licensed child placement agency having legal or physical
24 custody of the [person to be adopted] INDIVIDUAL is located;
25 [(4)] (IV) The [person to be adopted] INDIVIDUAL is domiciled, if [he]
26 THE INDIVIDUAL is related to the petitioner by blood or marriage or is an adult; or
27 [(5)] (V) An equity court has continuing jurisdiction over the custody of
28 the [person to be adopted] INDIVIDUAL.

29 ~~(2)~~ (2) THE VENUE IN AN ADOPTION OF AN INDIVIDUAL UNDER TITLE 5,
30 SUBTITLE 3, PART III OF THE FAMILY LAW ARTICLE IS IN THE COURT WITH
31 JURISDICTION OVER THE INDIVIDUAL UNDER TITLE 3, SUBTITLE 8 OF THIS ARTICLE.

32 ~~(3)~~ (3) THE VENUE IN AN ADOPTION OF AN INDIVIDUAL UNDER TITLE 5,
33 SUBTITLE 3, PART IV OF THE FAMILY LAW ARTICLE IS IN THE COURT ~~IN WHICH~~ WHERE THE
34 INDIVIDUAL'S GUARDIANSHIP CASE IS PENDING.

1 Article - Estates and Trusts

2 4-414. ADOPTEES.

3 (A) WILL DEFINED.

4 IN **THIS SECTION**, "WILL" INCLUDES ANOTHER WRITTEN INSTRUMENT OF
5 SIMILAR IMPORT.

6 (B) CONSTRUCTION OF WILL.

7 (1) UNLESS A WILL EXECUTED ON OR AFTER JUNE 1, 1947, CLEARLY
8 INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
9 EQUIVALENT TERM IN THE WILL INCLUDES AN ADOPTEE WHETHER THE WILL WAS
10 EXECUTED BEFORE OR AFTER A COURT ENTERED AN ORDER FOR ADOPTION.

11 (2) UNLESS A WILL EXECUTED ON OR BEFORE MAY 31, 1947, CLEARLY
12 INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
13 EQUIVALENT TERM IN THE WILL INCLUDES AN ADOPTEE IF, ON OR AFTER JUNE 1,
14 1947, A COURT ENTERED AN INTERLOCUTORY ORDER FOR ADOPTION OR, IF NONE, ~~AN~~ A
15 FINAL ORDER FOR ADOPTION.

16 COMMITTEE NOTE: This section is derived without substantive change from
17 former FL § 5-308(d), as it related to wills.

18 Former FL § 5-308(a), which disclaimed any intent to limit distribution by
19 will, is omitted from this section as the disclaimer seemingly applied only
20 to other provisions of former FL § 5-308.

21 The word "order" is substituted for the former, more archaic "decree".

22 As to other instruments, *see* **new RP § 2-123**.

23 Article - Family Law

24 1-101.

25 (B) CHILD IN NEED OF ASSISTANCE.

26 "CHILD IN NEED OF ASSISTANCE" MEANS AN INDIVIDUAL ADJUDICATED AS A
27 CHILD IN NEED OF ASSISTANCE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
28 ARTICLE.

29 COMMITTEE NOTE: This subsection is new and added to allow concise and
30 consistent reference to children in need of assistance without repetition of
31 the cross-reference to the Courts Article provisions.

32 (C) CINA CASE.

33 "CINA CASE" MEANS A CASE UNDER TITLE 3, SUBTITLE 8 OF THE COURTS
34 ARTICLE.

1 COMMITTEE NOTE: This subsection is new and added to allow concise and
2 consistent reference to cases involving adjudication of need for assistance
3 without repetition of the cross-reference to the Courts Article provisions.

4 (F) JUVENILE COURT.

5 "JUVENILE COURT" MEANS THE CIRCUIT COURT FOR A COUNTY SITTING AS A
6 JUVENILE COURT.

7 COMMITTEE NOTE: This subsection is new and added to allow concise
8 reference to juvenile courts. Accordingly, former FL § 5-701(f), which
9 defined "court" solely for purposes of FL Title 5, Subtitle 7, and former FL
10 § 5-1201(d), which incorporated the § 5-701(f) definition, are deleted as
11 unnecessary.

12 This definition also will apply to **current FL §§ 1-201(a)(1) and (5) and (c),**
13 **5-525(a)(1)(ii), 5-525.2(a), 5-544(3), and 5-545(b),** in which the term
14 "juvenile court" is used without definition.

15 Defined term: "County" § 1-101

16 (G) LOCAL DEPARTMENT.

17 "LOCAL DEPARTMENT" MEANS:

18 (1) A LOCAL DEPARTMENT OF SOCIAL SERVICES; OR

19 (2) IN MONTGOMERY COUNTY, THE COUNTY DEPARTMENT OF HEALTH
20 AND HUMAN SERVICES.

21 COMMITTEE NOTE: This subsection is new and added to allow concise
22 reference to local departments and their counterpart in Montgomery
23 County under **current Art. 88A, § 13A of the Code.** Accordingly, former FL §§
24 5-401(c), 5-4C-01(f), 5-501(l), 5-705.1(a), 5-1201(f), and 6-101(b), which
25 defined "local department" for specific parts of this article, are deleted as
26 unnecessary.

27 Additionally, **current FL §§ 4-501(k), 5-701(o), and 14-101(j),** which define
28 "local department" in terms of a specific jurisdiction, are amended to
29 reflect the addition of this new subsection.

30 [(e)] (I) "State" means, except in **Title 10, Subtitle 3 of this article:**

31 (1) a state, COMMONWEALTH, possession, or territory of the United
32 States; OR

33 (2) the District of Columbia[; or

34 (3) the Commonwealth of Puerto Rico].

1 COMMITTEE NOTE: This subsection is derived from former FL § 1-101(e) and
2 revised to conform to the substance of definitions of "state" in other revised
3 articles of the Code. See, e.g., CS § 1-101(n), IN § 1-101(mm), and PUC §
4 1-101(ff).

5 4-402.

6 (a) (1) To implement the policies set forth in this subtitle, the Secretary
7 shall establish in each local department [of social services] a program of services to
8 families with children.

9 (2) The program shall be available to:

10 [(1)] (I) those families who are receiving temporary cash assistance or
11 Supplemental Security Income; and

12 [(2)] (II) those families whose gross income is 80% or less of this State's
13 median income adjusted for family size in accordance with [rules and] regulations
14 adopted by the Social Services Administration.

15 4-403.

16 (a) The Department of Human Resources shall continue to develop and
17 maintain a program to carry out the purposes of this subtitle in each local department
18 [of social services].

19 (b) In implementing the program, the Department of Human Resources shall:

20 (1) adopt [rules,] regulations[, and] guidelines for implementing the
21 program in each local department [of social services];

22 4-501.

23 (k) "Local department" means the local department [of social services] that
24 has jurisdiction in the county:

25 (1) where the home is located; or

26 (2) if different, where the abuse is alleged to have taken place.

27 5-101. DEFINITIONS.

28 (A) IN GENERAL.

29 In this title[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

30 COMMITTEE NOTE: This subsection is derived from the introductory phrase of
31 former FL § 5-101.

32 (B) ADOPTIVE PARENT.

1 "ADOPTIVE PARENT" MEANS AN INDIVIDUAL WHO COMPLETES ADOPTION OF
2 ANOTHER INDIVIDUAL.

3 COMMITTEE NOTE: This subsection is new and added to allow concise
4 reference to individuals who have adopted another individual, whether
5 under this title or other law. Although Maryland law allows adoption in
6 this State only by adults, other ~~states~~ **jurisdictions** may not. Accordingly, "adult" is not
7 used.

8 This definition also will apply to **current FL §§ 5-408 and 5-410.1**, in
9 which the term "adoptive parent" is used without definition.

10 (C) CHILD PLACEMENT AGENCY.

11 "CHILD PLACEMENT AGENCY" MEANS:

12 (1) A LOCAL DEPARTMENT; OR

13 (2) A PRIVATE AGENCY THAT IS LICENSED BY THE SOCIAL SERVICES
14 ADMINISTRATION OF THE STATE DEPARTMENT UNDER **§ 5-507 OF THIS TITLE**, OR BY
15 A COMPARABLE GOVERNMENTAL UNIT OF ANOTHER STATE, TO PLACE CHILDREN.

16 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(b) and
17 revised to apply to all of FL Title 5. Accordingly, former FL §§ 5-4B-01(c)
18 and 5-501(c), which cross referenced the former FL § 5-301(b) definition,
19 are deleted.

20 This definition also will apply to **current FL § 5-408**, in which the term
21 "child placement agency" is used without definition.

22 In item (1) of this subsection, the former phrase "of social services" is
23 deleted in light of the newly defined term "local department", which also
24 encompasses the Montgomery County Department of Health and Human
25 Services.

26 In item (2) of this subsection, the reference to "a comparable governmental
27 unit of another state" is added for completeness.

28 Defined terms: "Local department" § 1-101

29 "State" § 1-101

30 "State Department" § 5-101

31 (D) CRIME OF VIOLENCE.

32 "CRIME OF VIOLENCE":

33 (1) HAS THE MEANING STATED IN **§ 14-101 OF THE CRIMINAL LAW**
34 **ARTICLE**; OR

1 (2) AS TO A CRIME COMMITTED IN ANOTHER STATE, MEANS A CRIME
2 THAT, IF COMMITTED IN THIS STATE, WOULD BE A CRIME OF VIOLENCE AS DEFINED
3 IN **§ 14-101 OF THE CRIMINAL LAW ARTICLE**.

4 COMMITTEE NOTE: This subsection is new and added to allow concise
5 reference to crimes of violence without repetition of the cross reference to
6 the Criminal Law Article definition.

7 Defined term: "State" § 1-101

8 (E) DISABILITY.

9 "DISABILITY" MEANS:

10 (1) ALCOHOL DEPENDENCE, AS DEFINED IN **§ 8-101 OF THE HEALTH -**
11 **GENERAL ARTICLE**;

12 (2) DRUG DEPENDENCE, AS DEFINED IN **§ 8-101 OF THE HEALTH -**
13 **GENERAL ARTICLE**;

14 (3) A MENTAL DISORDER, AS DEFINED IN **§ 10-101 OF THE HEATH -**
15 **GENERAL ARTICLE**; OR

16 (4) MENTAL RETARDATION, AS DEFINED IN **§ 7-101 OF THE HEALTH -**
17 **GENERAL ARTICLE**.

18 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(c).

19 No change is made other than renumbering and reordering of the
20 conditions in alphabetical order.

21 (F) STATE DEPARTMENT.

22 "STATE Department" means the STATE Department of Human Resources.

23 COMMITTEE NOTE: This subsection is derived from former FL § 5-101, except
24 the introductory phrase. Accordingly, former FL §§ 5-559(b) and 5-586(b),
25 which defined "Department", are deleted.

26 The word "State" is added to distinguish this department from local
27 departments.

28 SUBTITLE 3. ADOPTION WITHOUT OR AFTER PUBLIC GUARDIANSHIP.

29 PART I. GENERAL PROVISIONS.

30 5-301. DEFINITIONS.

31 (A) IN GENERAL.

32 IN **THIS SUBTITLE** THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

1 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only
a stylistic change is made.

3 (B) CAREGIVER.

4 "CAREGIVER" MEANS A PERSON WITH WHOM A CHILD RESIDES AND WHO
5 EXERCISES RESPONSIBILITY FOR THE WELFARE OF THE CHILD.

6 COMMITTEE NOTE: This subsection is new and added to exemplify persons
7 who, in addition to a parent, might care for a child.

8 Defined terms: "Child" § 5-301

9 "Person" § 1-101

10 (C) CHILD.

11 "CHILD" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A GUARDIANSHIP OR
12 ADOPTION PETITION UNDER **THIS SUBTITLE**.

13 COMMITTEE NOTE: This subsection is new and added to allow concise
14 reference to the subject of a petition under this subtitle. Use of the word
15 "child" as the defined term reflects that, in some instances, a petition must
16 be filed during the minority of the subject and, in any event, that most
17 petitions involve minors. Such usage, however, is not intended to suggest
18 that an individual who is a minor when a petition is filed will not be an
19 adult by the time a court rules on the petition.

20 Defined term: "Guardianship" § 5-301

21 (D) GUARDIANSHIP.

22 "GUARDIANSHIP" MEANS:

23 (1) AN AWARD UNDER **THIS SUBTITLE**, OF ANY POWER OF A GUARDIAN
24 AS SET FORTH IN **§ 5-324(B) OF THIS SUBTITLE**; OR

25 (2) IF REQUIRED BY THE CONTEXT, A COMPARABLE AWARD BY A COURT
26 OUTSIDE THIS STATE.

27 COMMITTEE NOTE: This subsection is substituted for former FL § 5-301(e), to
28 reference the substantive provisions on guardianship in this State and to
29 ~~delineate~~ **encompass, as appropriate**, comparable grants of power by other jurisdictions.

30 (E) IDENTIFYING INFORMATION.

31 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
32 IDENTITY OR LOCATION OF AN INDIVIDUAL.

33 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
34 restated in positive, rather than negative, terms, for consistency with
35 comparable provisions such as current **FL § 5-701(i)**.

1 (F) PARENT.

2 (1) "PARENT" MEANS AN INDIVIDUAL WHO, AT THE TIME A PETITION
3 FOR GUARDIANSHIP IS FILED UNDER **THIS SUBTITLE** OR AT ANY TIME BEFORE A
4 COURT TERMINATES THE INDIVIDUAL'S PARENTAL RIGHTS:

5 (I) MEETS A CRITERION IN **§ 5-306(A) OF THIS SUBTITLE**; OR

6 (II) IS THE MOTHER.

7 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
8 ADJUDICATED NOT TO BE A FATHER OR MOTHER **OF A CHILD**.

9 COMMITTEE NOTE: This subsection is new and added to allow concise
10 reference to an individual who is a party to, or has the right to notice of, a
11 case under this subtitle due to a parental relationship.

12 Defined terms: "Guardianship" § 5-301

13 "Includes" § 1-101

14 "Including" § 1-101

15 (G) PARTY.

16 "PARTY" MEANS:

17 (1) IN A GUARDIANSHIP CASE UNDER **THIS SUBTITLE**:

18 (I) THE CHILD;

19 (II) THE CHILD'S PARENT; AND

20 (III) THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
21 COMMITTED;

22 (2) IN AN ADOPTION CASE UNDER **PART III OF THE SUBTITLE**:

23 (I) THE CHILD;

24 (II) THE CHILD'S PARENT; AND

25 (III) THE INDIVIDUAL SEEKING ADOPTION;

26 (3) IN AN ADOPTION CASE UNDER **PART IV OF THIS SUBTITLE**:

27 (I) THE CHILD; AND

28 (II) THE INDIVIDUAL SEEKING ADOPTION; AND

29 (4) IF EXPRESS REFERENCE IS MADE TO A CINA CASE. A
30 GOVERNMENTAL UNIT OR PERSON DEFINED AS A PARTY IN **§ 3-801 OF THE COURTS**
31 **ARTICLE**.

1 COMMITTEE NOTE: This subsection is new and added to allow concise
2 reference to a party in a case under this subtitle or a CINA case.

3 Defined terms: "Child" § 5-301

4 "CINA case" § 1-101

5 "Guardianship" § 5-301

6 "Local department" § 1-101

7 "Parent" § 5-301

8 "Person" § 1-101

9 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in new
10 § 5-301, definitions in §§ 1-101 and 5-101 of this article apply to this
11 subtitle.

12 5-302. SCOPE OF SUBTITLE.

13 (A) PROCEEDINGS.

THIS SUBTITLE APPLIES ONLY TO:

14 (1) GUARDIANSHIP OF AN INDIVIDUAL WHO IS COMMITTED TO A LOCAL
15 DEPARTMENT AS A CHILD IN NEED OF ASSISTANCE;

16 (2) ADOPTION OF AN INDIVIDUAL WHO IS COMMITTED TO A LOCAL
17 DEPARTMENT AS A CHILD IN NEED OF ASSISTANCE, WITHOUT PRIOR TERMINATION
18 OF PARENTAL RIGHTS AS TO THE INDIVIDUAL; AND

19 (3) ADOPTION OF AN INDIVIDUAL UNDER GUARDIANSHIP UNDER THIS
20 SUBTITLE.

(B) PRIOR FILINGS.
THIS SUBTITLE:

(1) DOES NOT APPLY TO A GUARDIANSHIP CASE FILED ON OR BEFORE SEPTEMBER 30, 2005,
UNTIL GUARDIANSHIP, IF ANY, IS GRANTED.

(2) DOES NOT APPLY TO AN ADOPTION CASE FILED ON OR BEFORE SEPTEMBER 30, 2005.

21 COMMITTEE NOTE: This section is new and added to make the scope of this
22 new subtitle clear.

23 Defined terms: "Child in need of assistance" § 1-101

24 "Guardianship" § 5-301

25 "Local department" § 1-101

26 5-303. STATEMENT OF FINDINGS; PURPOSES.

27 (A) STATEMENT OF FINDINGS.

28 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
29 **THIS SUBTITLE** ARE DESIRABLE AND SOCIALLY NECESSARY.

30 (B) PURPOSES.

31 THE PURPOSES OF **THIS SUBTITLE** ARE TO:

32 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
33 CONSISTENT WITH THEIR BEST INTERESTS;

34 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
35 THEIR PARENTS;

1 (3) ENSURE ADOPTION ONLY INTO FAMILIES FIT FOR THE
2 RESPONSIBILITY;

3 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
4 AGREEMENTS TO TERMINATE PARENTAL RIGHTS;

5 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY GIVING THEM
6 INFORMATION ABOUT CHILDREN AND THEIR BACKGROUNDS; AND

7 (6) PROTECT ADOPTIVE PARENTS FROM FUTURE DISTURBANCES OF
8 THEIR RELATIONSHIPS WITH CHILDREN BY FORMER PARENTS.

9 COMMITTEE NOTE: This section is derived from former FL § 5-303.

10 In subsection (a) of this section, the former clause "that concern adoption"
11 is deleted as the findings apply to guardianship as well.

12 In subsection (b)(1) of this section, reference to "timely" provision of
13 "permanent and safe homes ... consistent with [the children's] best
14 interests" is substituted for the former reference to "stable homes that
15 protect ... safety and health", to emphasize the need for prompt resolution
16 of a case in accordance with the "best interests" standard applicable under,
17 e.g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
18 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

19 In subsection (b)(2) and (4) of this section, the former word "natural" is
20 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
21 - parent can be terminated in the same manner as a biological parent's
22 can. Similarly, in subsection (b)(6) of this section, the word "former" is
23 substituted for "natural", to encompass all individuals who have at any
24 time previously been a "parent".

25 In subsection (b)(3) of this section, reference to "ensur[ing] adoption only
26 into families" is substituted for the former reference to "permit[ting]
27 adoption only by individuals", to reflect that adoption is not only by a
28 petitioner but into the petitioner's family, which could be one or more
29 individuals.

30 In subsection (b)(5) of this section, the word "prospective" is added to
31 modify "adoptive parents", to reflect that information is provided before
32 completion of an adoption.

33 Defined terms: "Adoptive parent" § 5-101

34 "Child" § 5-301

35 "Parent" § 5-301

36 5-304. RELATIONSHIP WITH **TITLE 5, SUBTITLE 5.**

37 **THIS SUBTITLE** IS RELATED TO AND SHOULD BE READ IN RELATION TO
38 **SUBTITLE 5 OF THIS TITLE.**

1 COMMITTEE NOTE: This section formerly was FL § 5-304.

2 No change is made.

3 5-305. FOREIGN ORDERS.

4 (A) ~~FINAL~~ ORDER OF ANOTHER STATE.

5 IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL
6 ACCORD FULL FAITH AND CREDIT TO:

7 (1) ~~AN FINAL~~ ORDER OF ANOTHER STATE AS TO ADOPTION OR
8 GUARDIANSHIP IN COMPLIANCE WITH THE OTHER STATE'S LAWS; OR

9 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
10 OTHER STATE'S LAWS.

11 (B) OTHER FOREIGN ORDERS.

12 AS TO A JURISDICTION OTHER THAN A STATE:

13 (1) ~~AN FINAL~~ ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN
14 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
15 EFFECT AS ~~AN FINAL~~ ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS
16 STATE; AND

17 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
18 JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF
19 PARENTAL RIGHTS IN THIS STATE.

20 COMMITTEE NOTE: Subsections (a)(1) and (b)(1) of this section are derived from
21 former FL § 5-326 but bifurcated to reflect that the full faith and credit
22 clause is applicable to "states" as provided in "the United States
23 Constitution". Accordingly, in subsections (a) and (b) of this section,
24 respectively, the defined term "state" and the reference to a "jurisdiction
25 other than a state" are substituted for the former term "jurisdiction". Subsections (a)(1) and (b)(1) are revised to cover orders
for "guardianship", as well.

26 Subsections (a) and (b)(1) of this section are revised to cover orders for
27 guardianship" as well, while subsection (a)(2) and (b)(2) of this section is ~~is~~ **are** added to
28 ~~cover~~ **provide expressly for recognition of foreign orders relating to** termination of parental rights ~~in jurisdictions other than~~
~~states.~~

29 ~~Also in~~ **In** subsections (a)(1) and (b)(1) of this section, references to "compliance
30 with the ... laws" are added to state expressly that an order being
31 recognized must be a lawful order.

32 Also in subsections (a)(1) and (b)(1) of this section, the word "order" is
33 substituted for the former, more archaic "decree".

34 Defined terms: "Guardianship" § 5-301

35 "State" § 1-101

1 5-306. PATERNITY.

[NOTE – Per 5/25/04 response, still under consideration in light of *In re Thomas H.* (COA: 5/10/04).]

2 (A) PRESUMPTION.

3 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
4 FATHER IF:

5 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
6 THE CHILD'S CONCEPTION;

7 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
8 THE CHILD'S BIRTH;

9 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
10 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

11 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
12 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

13 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

14 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
15 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

16 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
17 THE CHILD'S BIOLOGICAL FATHER.

18 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

19 (1) A PETITIONER UNDER **PART II OR III OF THIS SUBTITLE** SHALL GIVE A
20 JUVENILE COURT NOTICE THAT A MAN WHO IS NOT NAMED IN THE PETITION AND
21 HAS NOT BEEN EXCLUDED AS A FATHER CLAIMS PATERNITY.

22 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
23 ON A PETITION ~~FOR GUARDIANSHIP OR ADOPTION~~ **UNDER PART II OR III OF THIS SUBTITLE**, A JUVENILE
COURT SHALL HOLD
24 A HEARING ON THE ISSUE OF PATERNITY.

25 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
26 derived from former FL § 5-310.

27 Subsection (a)(7) of this section is new and added to reflect the increasing
28 reliance on the accuracy of genetic testing.

29 The introductory clause of subsection (a) of this section, "[u]nless a court
30 excludes a man as the father of a child", is substituted for the former
31 disclaimer "unless ... his nonpaternity has been established to the
32 satisfaction of the court by affidavit or testimony", which pertained only to
33 the provisions revised in subsection (a)(3) and (4) of this section, ~~as~~ **because** a
34 finding by a court should pertain to all of the criteria under subsection (a)
35 of this section.

In subsection (a) of this section, the word "man" is substituted for the former reference to "an individual who does not meet the criteria for being a natural father ... claims to be the natural father", for brevity and

1 In subsection (a)(1), (2), and (6) of this section, the former word "natural" is
2 deleted; to reflect that parental status fatherhood could result from, e.g., an earlier
3 adoption. Similarly, in subsection (b)(1) of this section, reference to "a man
4 who is not named in the petition and has not been excluded as a father" is
5 substituted for the former reference to "an individual who does not meet
6 the criteria for being a natural father".

7 In subsection (b)(2) of this section, the limitation "before ruling on a
8 petition for guardianship or adoption under this subtitle" is added to clarify the period during
9 which a court may act.

10 Also in subsection (b)(2) of this section, the reference to a "request of a
11 party or claimant" is substituted for the former reference to "receipt of
12 notice", to allow a claimant, as well as a petitioner, to request a hearing but
13 obviate the need for a hearing if no one requests one.

14 Defined terms: "Child" § 5-301

15 "~~Guardianship~~" § 5-301

16 "Juvenile court" § 1-101

17 "Party" § 5-301

18 5-307. APPOINTED COUNSEL.

19 (A) PARENT.

20 (1) UNLESS THE PUBLIC DEFENDER IS REQUIRED UNDER ARTICLE 27A, §
21 4 OF THE CODE TO PROVIDE REPRESENTATION, IN A CASE UNDER PART II OR III OF
22 THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO REPRESENT A
23 PARENT WHO:

24 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
25 EFFECTIVELY PARTICIPATING IN THE CASE; OR

26 (II) WHEN A PETITION FOR GUARDIANSHIP OR ADOPTION IS FILED,
27 IS A MINOR.

28 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
29 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A JUVENILE COURT, ON ITS
30 OWN MOTION OR MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

31 (B) CHILD.

32 (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, IN A
33 CASE UNDER THIS SUBTITLE, A JUVENILE COURT SHALL APPOINT AN ATTORNEY TO
34 REPRESENT A CHILD.

35 (2) UNLESS A JUVENILE COURT FINDS THAT IT IS NOT IN A CHILD'S
36 BEST INTERESTS, THE JUVENILE COURT:

1 (I) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD
2 IN A PENDING CINA CASE OR GUARDIANSHIP CASE IS UNDER CONTRACT WITH THE
3 STATE DEPARTMENT TO PROVIDE SERVICES UNDER **THIS SUBSECTION**, SHALL
4 APPOINT THAT ATTORNEY; AND

5 (II) IF THE ATTORNEY WHO CURRENTLY REPRESENTS THE CHILD
6 IS NOT UNDER CONTRACT WITH THE STATE DEPARTMENT, SHALL STRIKE THE
7 APPEARANCE OF THAT ATTORNEY.

8 (C) DUAL REPRESENTATION.

9 AN ATTORNEY OR FIRM MAY REPRESENT MORE THAN ONE PARTY IN A CASE
10 UNDER **THIS SUBTITLE** ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT
11 ALLOW.

12 (D) COMPENSATION.

13 AN ATTORNEY APPOINTED UNDER **THIS SECTION** MAY BE COMPENSATED FOR
14 REASONABLE FEES, AS APPROVED BY A JUVENILE COURT.

15 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former FL
16 §§ 5-301(h) and 5-323(a)(1)(ii) and (iii) and revised to apply only to
17 guardianship or adoption before termination of parental rights. Subsection
18 (a)(1) also is broadened by omitting the former word "natural", as the
19 parental rights of a nonbiological - i.e., adoptive - parent can be
20 terminated in the same manner as a biological parent's can, and by timing
21 parental minority from the filing of the petition rather than the time to
22 give consent.

23 Subsection (a)(2) of this section is derived from former FL § 5-323(c).

24 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i)
25 and (iv) and expanded to provide for representation of the subject of a
26 petition in every guardianship case, without regard to consent or disability.

27 Subsection (b)(2) of this section is derived from former FL § 5-323(a)(2)
28 and revised to make clear that the contract attorney to be appointed is one
29 already representing a child, if any.

30 Subsection (c) of this section is derived from former FL § 5-323(e) and
31 restated to cover guardianship cases and to allow dual representation only
32 if not inconsistent with the Maryland Rules of Professional Conduct.

33 Subsection (d) of this section is derived from the first sentence of former
34 FL § 5-323(d).

35 In subsection (a)(1) of this section, the reference to "**Article 27A, § 4**" is
36 substituted for former FL § 5-323(b), which enumerated specific hearings
37 without reference to appeals, to ensure that the substantive provisions
38 remain consistent in the event of future amendment. **Art. 27A, § 4**

provides, in relevant part, for representation of an indigent parent in connection with a case under **Part II or III this subtitle**, extending to a hearing in connection with a guardianship case, a hearing under **new § 5-326** for which the parent has not waived the right to notice, a hearing in connection with an adoption case under **Part III of this subtitle**, and an appeal and, unless the Public Defender or court relieves an assigned attorney, continuing until final disposition of the cause.

In subsection (a)(1)(i) of this section, ~~the~~ reference to "effectively participating" is substituted for the former reference to "consenting and effectively participating". to conform to former FL § 5-323(c) - **new subsection (a)(2) of this section** - which, by ~~use of~~ **reference to** "consenting and otherwise effectively participating", made clear that consent is part of effective participation.

In subsection (a)(2) of this section, the newly defined term "parent" is substituted for the former references to an "individual whose consent is required" and "individual", for brevity and consistency with subsection (a)(1) of this section.

~~In~~ **The introductory language of** subsection (b)(1) of this section, ~~the introductory language~~, "[i]n accordance with paragraph (2)", is substituted for the former language "subject to paragraph (2)" and the former disclaimer "unless the public defender is required to provide representation" is omitted, as children are represented by the State Department's contractor.

In subsection (b)(2) of this section, the former limitation "[i]n any action in which payment for the services of a court-appointed attorney for a child is the responsibility of the local department of social services" is ~~deleted~~ **omitted** from **this subtitle** as unnecessary, as local departments are responsible for all CINA.

As to "minor", see Art. 1, § 24 of the Code.

Defined terms: "Child" § 5-301

"CINA case" § 1-101

"Disability" § 5-101

"Guardianship" § 5-301

"Juvenile court" § 1-101

"Parent" § 5-301

"Party" § 5-301

"State Department" § 5-101

5-308. AGREEMENT FOR POSTADOPTION CONTACT.

(A) AUTHORIZED.

(1) A PROSPECTIVE ADOPTIVE PARENT AND PARENT OF A PROSPECTIVE ADOPTEE UNDER **THIS SUBTITLE** MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW CONTACT, AFTER THE ADOPTION, BETWEEN:

(I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

1 (II) THE ADOPTEE OR ADOPTIVE PARENT.

2 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
3 UNDER **THIS SUBTITLE** MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
4 CONTACT BETWEEN:

5 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND

6 (II) THE ADOPTEE OR ADOPTIVE PARENT.

7 (B) CONSTRUCTION OF AGREEMENT.

8 AN AGREEMENT MADE UNDER **THIS SECTION** APPLIES TO CONTACT WITH AN
9 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

10 (C) DISSEMINATION; REDACTION.

11 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN **SUBSECTION**
12 **(A)(1) OF THIS SECTION**:

13 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
14 THE PROSPECTIVE ADOPTEE UNDER **THIS SUBTITLE** OR IN A CINA CASE PENDING AS
15 TO THE PROSPECTIVE ADOPTEE; AND

16 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
17 INFORMATION FROM THE COPIES.

18 (D) EFFECT OF NONCOMPLIANCE.

19 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
20 **THIS SECTION** IS NOT A GROUND FOR REVOKING CONSENT TO, OR SETTING ASIDE AN
21 ~~FINAL~~ ORDER FOR, AN ADOPTION OR GUARDIANSHIP.

22 (E) ENFORCEMENT.

23 A JUVENILE COURT OR OTHER COURT OF COMPETENT JURISDICTION SHALL
24 ENFORCE A WRITTEN AGREEMENT MADE IN ACCORDANCE WITH **THIS SECTION**
25 UNLESS ENFORCEMENT IS NOT IN THE ADOPTEE'S BEST INTERESTS.

26 COMMITTEE NOTE: This section is new and added to create a formal
27 procedure for postadoption visits or other contact. This section is not
28 intended, however, to preclude other agreements.

29 New subsection (e) provides for any court of competent jurisdiction to
30 enforce an agreement, although the Committee believes it would be best
31 for parties to return to a juvenile court.

32 As to "minor", *see* **Art. 1, § 24 of the Code**.

33 Defined terms: "Adoptive parent" § 5-101

34 "CINA case" § 1-101

1 "Guardianship" § 5-301

2 "Identifying information" § 5-301

3 "Juvenile court" § 1-101

4 "Parent" § 5-301

5 "Party" § 5-301

6 5-309. ASSESSMENT OF COSTS.

7 (A) TESTING.

8 ~~THE APPROPRIATE~~ A LOCAL DEPARTMENT SHALL PAY FOR ANY TESTING
9 PERFORMED ON ORDER OF A JUVENILE COURT IN CONNECTION WITH A PATERNITY
10 CLAIM **UNDER THIS SUBTITLE**, UNLESS THE JUVENILE COURT FINDS THAT A CLAIMANT UNDER **§ 5-306(A)(7)**
11 **OF THIS SUBTITLE** IS ABLE TO PAY FOR THE TESTING.

12 (B) COUNSEL FEES.

13 A JUVENILE COURT MAY ASSIGN COUNSEL FEES AMONG THE PARTIES TO A
14 CASE AS THE JUVENILE COURT CONSIDERS APPROPRIATE AND THE PARTIES'
15 ECONOMIC SITUATIONS ALLOW.

16 COMMITTEE NOTE: Subsection (a) of this section is new and added to state
17 expressly that a local department is responsible for payment for tests of an
18 indigent, putative father.

19 Subsection (b) of this section is derived from the second sentence of former
20 FL § 5-323(d) but revised to require consideration of the "economic
21 situations" of the parties.

22 Defined terms: "Juvenile court" § 1-101

23 "Local department" § 1-101

24 "Party" § 5-301

25 5-310. APPEAL.

26 A PARTY TO A CASE UNDER **THIS SUBTITLE** MAY APPEAL TO THE COURT OF
27 SPECIAL APPEALS:

28 (1) IN AN INTERLOCUTORY APPEAL, FROM A DENIAL OF THE RIGHT TO
29 PARTICIPATE IN A GUARDIANSHIP CASE BEFORE ENTRY OF AN ORDER FOR
30 GUARDIANSHIP;

31 (2) IN AN INTERLOCUTORY APPEAL, FROM A DENIAL OF THE RIGHT TO
32 PARTICIPATE IN AN ADOPTION CASE UNDER **PART III OF THIS SUBTITLE**; OR

33 (3) FROM A FINAL ORDER.

34 COMMITTEE NOTE: This section is derived from former FL § 5-330 and
35 revised to cover guardianship cases under this subtitle but limit
36 interlocutory appeals to issues as to participation in a guardianship case or

1 an adoption case before termination of parental rights.

2 In item (3) of this section, the former word "decree" is omitted as
3 unnecessary in light of the word "order".

4 Defined terms: "Guardianship" § 5-301

5 "Party" § 5-301

6 5-311. RESERVED.

7 5-312. RESERVED.

8 PART II. GUARDIANSHIP.

9 5-313. PETITION.

10 (A) REQUIRED.

11 EXCEPT AS PROVIDED IN § 5-331 OF THIS SUBTITLE, A PETITION FOR
12 GUARDIANSHIP SHALL PRECEDE A PETITION FOR ADOPTION UNDER THIS SUBTITLE.

13 (B) PETITIONER.

14 ONLY THE INDIVIDUAL WHO WOULD BE SUBJECT TO GUARDIANSHIP OR A
15 LOCAL DEPARTMENT MAY FILE A PETITION FOR GUARDIANSHIP UNDER THIS
16 SUBTITLE.

17 (C) AGE LIMIT.

18 A PETITION FOR GUARDIANSHIP OF AN INDIVIDUAL SHALL BE FILED BEFORE
19 THE INDIVIDUAL ATTAINS 18 YEARS OF AGE.

20 (D) CONTENTS.

21 A PETITIONER UNDER THIS SECTION SHALL ATTACH TO A PETITION:

22 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
23 PETITIONER HAS;

24 (2) IF APPLICABLE:

25 (I) PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF PARENTAL
26 RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A
27 STATE OR OTHER JURISDICTION; AND

28 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
29 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;
30 AND

31 (3) A NOTICE OF FILING THAT:

- 1 (I) STATES THE DATE ON WHICH THE PETITION WAS FILED;
- 2 (II) IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED WITH
- 3 THE PETITION;
- 4 (III) STATES THE OBLIGATION OF A PARENT TO GIVE THE JUVENILE
- 5 COURT AND LOCAL DEPARTMENT NOTICE OF EACH CHANGE IN THE PARENT'S
- 6 ADDRESS;
- 7 (IV) HAS PRINTED ON IT THE WEBSITE THAT THE STATE
- 8 DEPARTMENT MAINTAINS UNDER **ARTICLE 88A, § 18 OF THE CODE**; AND
- 9 (V) INCLUDES NO IDENTIFYING INFORMATION THAT WOULD BE IN
- 10 VIOLATION OF AN AGREEMENT OR CONSENT.

11 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §

12 5-317(a) and revised to mandate, rather than allow, a "guardianship"

13 petition and, in conjunction with **new § 5-302**, to apply only to a CINA in

14 the custody of a local department, rather than the former "child".

15 Subsection (b) of this section is derived from former FL § 5-317(b), only as

16 it related to CINAs, so that the reference to a petition of a CINA or local

17 department is substituted for the former reference to "the executive head

18 of a child placement agency or ... child" petitioning for "the agency to be

19 granted guardianship".

20 Subsection (c) of this section is derived from former FL § 5-307(b) and

21 revised to connect minority to the filing of a guardianship petition rather

22 than the guardianship.

23 Subsection (d) of this section is new and added to mandate inclusion of the

24 requisite consents and other documentation.

25 In subsection (a) of this section, the former reference to "decree" is omitted

26 as surplusage.

27 In subsection (b) of this section, the former reference to a filing by "the

28 attorney ... on behalf of" a child is omitted as unnecessary.

29 Defined terms: "Guardianship" § 5-301

30 "Identifying information" § 5-301

31 "Includes" § 1-101

"Including" § 1-101

32 "Juvenile court" § 1-101

33 "Local department" § 1-101

34 "Parent" § 5-301

35 "Person" § 1-101

36 "State" § 1-101

37 "State Department" § 5-101

1 5-314. PARENT~~AL~~ ADDRESSES.

2 A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS
3 GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART II OF THIS SUBTITLE.

4 COMMITTEE NOTE: This section is new and added to clarify the duty of a clerk
5 of court to keep the listing required under **CJ § 3-822** beyond the CINA
6 proceeding.

7 Defined terms: "Juvenile court" § 1-101

8 "Parent" § 5-301

9 5-315. NOTICE OF FILING.

10 (A) REQUIREMENT.

11 WITHIN 5 DAYS AFTER A PETITION FOR GUARDIANSHIP OF A CHILD IS FILED
12 WITH A JUVENILE COURT, THE CLERK SHALL SEND A COPY OF THE PETITION, WITH
13 THE NOTICE OF FILING THAT WAS ATTACHED TO THE PETITION, TO:

14 (1) THE LOCAL DEPARTMENT;

15 (2) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
16 RIGHT TO NOTICE;

17 (3) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
18 CASE; AND

19 (4) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

20 (B) METHOD.

21 NOTICE UNDER **THIS SECTION** SHALL BE BY FIRST CLASS MAIL.

22 (C) PARENTAL ADDRESS.

23 NOTICE UNDER **THIS SECTION** SHALL BE SENT TO A PARENT'S LAST ADDRESS
24 KNOWN TO THE JUVENILE COURT.

25 COMMITTEE NOTE: This section is new and added to state an express
26 requirement for notice to the individual who is the subject of the
27 guardianship petition and the individual's counsel, as well as the
28 individual's parents and their counsel.

29 Defined terms: "Child" § 5-301

30 "CINA case" § 1-101

31 "Guardianship" § 5-301

32 "Juvenile court" § 1-101

33 "Local department" § 1-101

34 "Parent" § 5-301

1 5-316. ORDER TO SHOW CAUSE.

2 (A) REQUIREMENT.

PROMPTLY AFTER A PETITION FOR GUARDIANSHIP IS FILED UNDER **THIS PART II OF THIS SUBTITLE**, A JUVENILE COURT SHALL ISSUE A SHOW CAUSE ORDER THAT REQUIRES THE PARTY TO WHOM ISSUED TO RESPOND AS REQUIRED UNDER THE MARYLAND RULES.

(B) SERVICE.

3 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO GUARDIANSHIP OF A CHILD, A
4 PETITIONER SHALL SERVE THE ORDER ON:

5 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT CONSENTED
6 TO THE GUARDIANSHIP;

(2) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA CASE; AND

7 ~~(2)~~ (3) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

8 ~~(B)~~ (C) METHOD.

9 SERVICE UNDER **THIS SECTION** SHALL BE:

(1) ON A PARENT, BY CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
REQUESTED; AND

(2) ON AN ATTORNEY, BY PERSONAL SERVICE OR
10 CERTIFIED MAIL.

11 ~~(C)~~ (D) PARENTAL ADDRESSES.

12 (1) SUBJECT TO **PARAGRAPH (2) OF THIS SUBSECTION**, SERVICE ON A
13 PARENT UNDER **THIS SECTION** SHALL BE ATTEMPTED, UNTIL PERFECTED, AT:

14 (I) EACH ADDRESS IN RECORDS OF A JUVENILE COURT KEPT
15 UNDER **§ 3-822 OF THE COURTS ARTICLE** WITHIN THE 270 DAYS IMMEDIATELY
16 PRECEDING THE FILING OF THE PETITION FOR GUARDIANSHIP;

17 (II) THE LAST ADDRESS IN RECORDS OF, OR KNOWN TO, THE LOCAL
18 DEPARTMENT WITHIN THE 270 DAYS IMMEDIATELY PRECEDING THE FILING OF THE
19 PETITION FOR GUARDIANSHIP;

20 (III) THE LAST ADDRESS IN RECORDS OF A CHILD SUPPORT AGENCY;
21 AND

22 (IV) EACH OTHER ADDRESS PROVIDED BY THE CHILD'S CAREGIVER.

23 (2) IF A LOCAL DEPARTMENT HAS PROOF THAT A PARENT DOES NOT
24 LIVE AT AN ADDRESS, THE LOCAL DEPARTMENT NEED NOT ATTEMPT SERVICE
25 THERE.

26 ~~(D)~~ (E) REASONABLE EFFORTS TO LOCATE PARENT.

27 (1) IF A JUVENILE COURT NEVER NOTIFIED A PARENT OF THE
28 REQUIREMENTS OF **§ 3-822 OF THE COURTS ARTICLE** AND A PETITIONER CANNOT
29 SERVE THE PARENT AT ANY OF THE ADDRESSES LISTED IN SUBSECTION (C) OF THIS
30 SECTION, THE PETITIONER SHALL MAKE A REASONABLE, GOOD FAITH EFFORT TO
31 IDENTIFY AN ADDRESS FOR THE PARENT AND SERVE THE PARENT AT THAT
32 ADDRESS.

33 (2) A JUVENILE COURT SHALL FIND THAT A PETITIONER HAS MET THE
34 REQUIREMENTS OF **PARAGRAPH (1) OF THIS SUBSECTION**, IF THE PETITIONER
35 SHOWS, BY AFFIDAVIT OR TESTIMONY, THAT THE PETITIONER MADE INQUIRIES

1 AFTER OR WITHIN THE 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE
2 PETITION FOR GUARDIANSHIP:

3 (I) WITH THE STATE MOTOR VEHICLE ADMINISTRATION;

4 (II) WITH THE STATE DEPARTMENT;

5 (III) WITH THE STATE DEPARTMENT OF PUBLIC SAFETY AND
6 CORRECTIONAL SERVICES, INCLUDING ITS DIVISION OF PAROLE AND PROBATION;

7 (IV) WITH THE DETENTION CENTER OF THE COUNTY WHERE THE
8 PETITION IS FILED;

9 (V) WITH THE JUVENILE COURT;

10 (VI) IF THE LOCAL DEPARTMENT IS AWARE THAT THE PARENT HAS
11 RECEIVED BENEFITS FROM A PARTICULAR SOCIAL SERVICES ENTITY WITHIN THE
12 180 DAYS IMMEDIATELY PRECEDING THE FILING OF THE PETITION, WITH THAT
13 ENTITY;

14 (VII) IF THE LOCAL DEPARTMENT IS AWARE THAT THE PARENT HAS
15 BEEN CONFINED IN A PARTICULAR DETENTION FACILITY WITHIN THE 180 DAYS
16 IMMEDIATELY PRECEDING THE FILING OF THE PETITION, WITH THAT FACILITY;

17 (VIII) ~~IF THE LOCAL DEPARTMENT IS ABLE TO FIND THE CHILD'S~~
18 ~~CAREGIVER,~~ WITH THE **CHILD'S** CAREGIVER;

19 (IX) IF THE PETITIONER IS ABLE TO CONTACT THE CHILD'S OTHER
20 PARENT, WITH THAT PARENT;

21 (X) IF THE PETITIONER IS ABLE TO CONTACT KNOWN MEMBERS OF
22 THE PARENT'S IMMEDIATE FAMILY, WITH THOSE MEMBERS; AND

23 (XI) IF THE PETITIONER IS ABLE TO CONTACT THE PARENT'S
24 CURRENT OR LAST KNOWN EMPLOYER, WITH THAT EMPLOYER.

25 (3) A JUVENILE COURT SHALL CONSIDER AN INQUIRY UNDER **THIS**
26 **SUBSECTION** SUFFICIENT IF MADE BY SEARCHING THE COMPUTER FILES OF, OR
27 MAKING AN INQUIRY BY REGULAR MAIL TO, A GOVERNMENTAL UNIT OR PERSON
28 LISTED IN **THIS SUBSECTION**.

29 (4) A JUVENILE COURT SHALL CONSIDER FAILURE TO RECEIVE A
30 RESPONSE WITHIN 30 DAYS AFTER THE PETITIONER MAILES AN INQUIRY UNDER **THIS**
31 **SUBSECTION** TO BE A NEGATIVE RESPONSE TO THE INQUIRY.

32 ~~(E)~~ **(F)** PUBLICATION.

33 (1) IF A JUVENILE COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY,
34 THAT A PETITIONER MET THE REQUIREMENTS OF **SUBSECTIONS ~~(C)~~ (D) AND ~~(E)~~ (F) OF THIS**
35 **SECTION** BUT COULD NOT EFFECT SERVICE ON A PARENT, THE JUVENILE COURT
36 SHALL ORDER SERVICE THROUGH NOTICE BY PUBLICATION AS TO THAT PARENT.

1 (2) NOTICE UNDER **THIS SUBSECTION** SHALL CONSIST OF
2 SUBSTANTIALLY THE FOLLOWING STATEMENT:

TO: (FATHER'S NAME)TO: (MOTHER'S NAME)TO: UNKNOWN PARENT

3 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN
4 FILED IN THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER).
5 ALL PERSONS WHO BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR
6 FEMALE) CHILD BORN ON (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S
7 AND FATHER'S NAMES AND DATES OF BIRTH) SHALL FILE A WRITTEN
8 RESPONSE. A COPY OF THE PETITION MAY BE OBTAINED FROM THE
9 JUVENILE CLERK'S OFFICE AT (ADDRESS) AND (TELEPHONE NUMBER). IF
10 YOU DO NOT FILE A WRITTEN OBJECTION BY (DEADLINE), YOU WILL HAVE
11 AGREED TO THE PERMANENT LOSS OF YOUR PARENTAL RIGHTS TO THIS
12 CHILD."

13 (3) SERVICE UNDER **THIS SUBSECTION** SHALL BE BY:

14 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
15 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PARENT LAST RESIDED OR,
16 IF UNKNOWN, WHERE THE PETITION IS FILED; OR

17 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE STATE
18 DEPARTMENT.

19 COMMITTEE NOTE: Subsection (a) of this section is new and added to state expressly the duty of a court to issue a show cause order.

20 Subsection (b) of this section is derived from former FL §
21 5-322(a)(3) and, as it related to guardianship, (1)(i) and (ii)2 and the
22 introductory language of (b) and revised to reflect that a petitioner's duty
begins "after issuance" of a show cause order by a court and to require service on a parent's last attorney of record.

23 Subsection ~~(b)~~ (c) of this section is derived from the reference to "certified
24 mail or private process" in the introductory language of former FL §
25 5-322(b), and revised to clarify that, for a parent, "restricted delivery, return receipt requested" is required and to delete the
inconsistent reference to "both certified mail and private
26 process", in former FL § 5-322(c)(2), is omitted.

27 Subsection ~~(c)~~(d)(1)(i) and (ii) of this section is derived from former FL §
28 5-322(b)(1) and (2)(i).

29 Subsection ~~(c)~~(d)(1)(iii) and (iv) of this section is new and added to encompass
30 other common sources of current address.

31 Subsection ~~(c)~~(d)(2) of this section is new and added to state conditions under
32 which service need not be attempted.

33 Subsection ~~(d)~~(e)(1) of this section is derived from former FL § 5-322(b)(2)(ii)
34 and revised to state expressly that a petitioner must make reasonable
35 efforts to locate and serve a parent but only if service is not otherwise
36 effected and the parent was not notified at any time, not just during the
37 CINA hearing, of the duty to keep a current address on file with a court.

38 Subsection ~~(d)~~(e)(2)(i), (iii) through (vii), and (ix) through (xi), (3), and (4) of
39 this section is derived from former FL § 5-322(e)(1)(i) and (iii) through

1 (viii).

2 Subsection ~~(d)~~(e)(2)(ii) of this section is substituted for former FL §
3 5-322(e)(1)(ii).

4 Subsection ~~(d)~~(e)(2)(viii) of this section is new and added for completeness.

5 Subsection ~~(e)~~(f)(1) and (3)(i) of this section is derived from former FL §
6 5-322(c)(2) and (3).

7 Subsection ~~(e)~~(f)(2) of this section is new and added to give a clerk a statutory
8 form that will afford adequate notice.

9 Subsection ~~(e)~~(f)(3)(ii) of this section is new and added to afford an
10 alternative means of notice by publication on a website.

11 In subsection ~~(a)~~(b)(1) of this section, the former limitation as to "a petition ...
12 filed after ... the child has been adjudicated to be a child in need of
13 assistance" is omitted, and references to a "child" and the "CINA case" are
14 substituted for the former references to a "minor child" and "juvenile
15 proceeding", to conform to the revised scope of this subtitle. The similar
16 limitation and the language "[f]or a petition filed by a local department of
17 social services" also are omitted in subsections ~~(d)~~(e)(1) and ~~(e)~~(f)(1) of this
18 section.

19 In subsection ~~(a)~~(b)(1) of this section, the reference to a "parent[s] who has not
20 consented" is substituted, for brevity, for the reference, in former FL §
21 5-322(a)(1)(i), to the "person whose consent is required" and for former FL
22 § 5-322(a)(2), which exempted persons having consented already.

23 In subsection ~~(a)~~(b)(2) of this section, reference to the "last attorney of record"
24 is substituted for the former reference to the attorney "who represented" a
25 child, to ensure service on the most recent attorney.

26 In subsections ~~(a)~~(b)(1), ~~(c)~~(d)(1), and ~~(d)~~(e)(1) of this section, the former word
27 "natural" is omitted, to reflect that the parental rights of a nonbiological -
28 i.e., adoptive - parent can be terminated in the same manner as a
29 biological parent's can.

30 Subsection ~~(e)~~(d)(1) of this section is revised to require attempt at service,
31 "until perfected", at addresses available from all, rather than just one, of
32 the listed sources, for a parent whether present or not present at a CINA
33 hearing. Accordingly, the requirement in former FL § 5-322(a)(3) for
34 attempted service at the "last known address" of "each person whose
35 consent is required" is omitted as surplusage.

36 In subsection ~~(e)~~(d)(1)(i) and (ii) of this section, the reference to "270 days" is
37 substituted for the former 6-month period, to extend the period and to
38 allow easier calculation of the period. Similarly, in the introductory
39 language of subsection ~~(d)~~(e)(2) of this section, reference to "180 days" is

substituted for the former 6-month period, while in subsection ~~(d)~~(e)(2)(vi) and (vii), references to "180 days" are substituted for former 9-month periods.

Subsection ~~(d)~~(e)(2) of this section is revised in the active voice to state expressly that which only is implied in former FL § 5-322(e)(1) - that a petitioner has the onus to make, and satisfy a court as to, inquiries - but the former limitation, "[f]or a petition filed by a local department of social services" is omitted, making the onus applicable to a CINA petitioner as well.

Subsection ~~(d)~~(e)(2)(iii) of this section is revised to "includ[e] contact with the "Division of Parole and Probation" as the Division is part of the State Department of Public Safety and Correctional Services.

In subsection ~~(e)~~(f)(1) and the introductory clause of ~~(d)~~(e)(2) of this section, the general references to "requirements" of referenced provisions are substituted for the former references to "a reasonable, good faith effort ... to identify the last known address of the parent" and "reasonable good faith efforts to serve ... the parent at the addresses specified in ... this section", for brevity.

In subsection ~~(d)~~(e)(2)(iv) of this section, the defined term "county" is substituted for the former reference to a "local jurisdiction", for brevity and consistency.

In subsection ~~(d)~~(e)(2)(v) of this section, the former reference to "the jurisdiction in which the petition is filed" is omitted as unnecessary in light of the use of the article "the".

Subsection ~~(d)~~(e)(3) and (4) of this section is revised in the active voice to state expressly that which only was implied in former FL § 5-322(e)(2)(i) - that a court has the onus to make a determination as to sufficiency of an inquiry according to the presumption.

In subsection ~~(d)~~(e)(3) of this section, reference to a "governmental unit or person" is substituted for the former references to "an identified agency" and "the agency or person", to state expressly that governmental units are covered - private "agencies" being within the defined term "person" - and to reflect that a person, such as a private agency, may have computer records.

As to a newspaper in general circulation, see **Art. 1, § 28 of the Code.**

Defined terms: "Caregiver" § 5-301

"Child" § 5-301

"CINA case" § 1-101

"County" § 1-101

"Guardianship" § 5-301

"Includes" § 1-101

1 "Including" § 1-101

2 "Juvenile court" § 1-101

3 "Local department" § 1-101

4 "Parent" § 5-301

5 "Person" § 1-101

6 "State Department" § 5-101

7 5-317. ~~HEARINGS; INVESTIGATIONS.~~

8 ~~(A) — HEARINGS.~~

9 ~~(1) — IF A PARTY BECOMES AWARE, BEFORE A JUVENILE COURT RULES ON~~
10 ~~A GUARDIANSHIP PETITION, THAT A CONDITION OF CONSENT UNDER § 5-320(B) OF~~
11 ~~THIS SUBTITLE MAY NOT BE FULFILLED.~~

12 ~~(I) — THE PARTY PROMPTLY SHALL:~~

13 ~~1. — FILE NOTICE WITH THE JUVENILE COURT, AND~~

14 ~~2. — NOTIFY ALL OF THE OTHER PARTIES;~~

15 ~~(II) — THE JUVENILE COURT SHALL SCHEDULE A HEARING TO OCCUR~~
16 ~~WITHIN 30 DAYS AFTER THE FILING OF THE NOTICE, AND~~

17 ~~(III) — IF THE PARTY WHOSE CONDITION CANNOT BE FULFILLED~~
18 ~~DECLINES TO ENTER INTO A NEW CONSENT, THE JUVENILE COURT SHALL SET THE~~
19 ~~CASE IN FOR A PROMPT TRIAL ON THE MERITS OF THE PETITION.~~

20 ~~(2) — IN ADDITION TO ANY HEARING REQUIRED UNDER § 5-306(B)(2) OR §~~
21 ~~5-318 OF THIS SUBTITLE OR PARAGRAPH (1) OF THIS SUBSECTION, A JUVENILE~~
22 ~~COURT MAY HOLD ANY HEARING THAT THE JUVENILE COURT CONSIDERS~~
23 ~~NECESSARY TO RULE ON A PETITION FOR GUARDIANSHIP.~~

24 ~~(B) — INVESTIGATIONS.~~

25 ~~IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER § 5-323(C) OF THIS~~
26 ~~SUBTITLE, A JUVENILE COURT MAY ORDER A NEUTRAL INDIVIDUAL OR AGENCY TO~~
27 ~~CARRY OUT ANY INVESTIGATION THAT THE JUVENILE COURT CONSIDERS~~
28 ~~NECESSARY TO DETERMINE A CHILD'S BEST INTERESTS IN RULING ON A PETITION~~
29 ~~FOR GUARDIANSHIP.~~

30 ~~(C) — TRIAL.~~

31 ~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AFTER EXPIRATION OF~~
32 ~~THE TIME TO RESPOND TO A SHOW CAUSE ORDER ON A GUARDIANSHIP PETITION, A~~
33 ~~JUVENILE COURT SHALL SET THE CASE FOR TRIAL PROMPTLY.~~

34 COMMITTEE NOTE: Subsection (a)(1) of this section is new and added to
35 reflect the addition of provisions for conditional consent in the referenced
36 new § 5-320(b).

1 Subsections (a)(2) and (b) of this ~~This~~ section ~~are is~~ derived from ~~the references to investigation in~~ former FL §
 2 5-317(c)(1) and ~~the reference to investigation and hearings in~~ (g)(1).

3 Subsection (c) of this section is new and added to emphasize the need for
 4 timely resolution of guardianship cases.

5 In subsections (a)(2) and (b) of this section, the ~~The~~ introductory clauses, "[i]n
 6 addition to ...", ~~are is~~ substituted for the former "[e]xcept as provided", to
 7 make clear that an investigation ~~or hearing~~ under this section
 8 supplements mandated investigations ~~and hearings~~.

9 ~~Also in subsections (a)(2) and (b) of this section, the~~ The phrase "to determine a child's best interests" is added to state the
 standard expressly.

10 The words "ruling" and
 11 "rule" ~~are is~~ substituted for the former reference to "grant[ing] a decree
 awarding guardianship", to reflect that the ruling may deny guardianship.

12 In subsection (b) of this section, the phrase "to determine a child's best
 13 interests" is added to state the standard expressly.

14 Defined terms: "Child" § 5-301

15 "Guardianship" § 5-301

16 "Juvenile court" § 1-101

17 "Party" § 5-301

18 5-318. HEARINGS ON GUARDIANSHIP PETITION.

19 (A) CONSENSUAL GUARDIANSHIP.

(1) IN ADDITION TO ANY HEARING REQUIRED UNDER THIS SUBSECTION OR § 5-306(B)(2) OF
 THIS SUBTITLE, A JUVENILE COURT ~~SHALL MAY~~ HOLD A HEARING BEFORE ENTERING A
 20 GUARDIANSHIP ORDER UNDER THIS PART-H § 5-320(A)(1) OF THIS SUBTITLE OR OTHERWISE RULING ON A
 GUARDIANSHIP PETITION.

(2) IF A PARTY BECOMES AWARE, BEFORE A JUVENILE COURT RULES ON A GUARDIANSHIP
 PETITION, THAT A CONDITION OF CONSENT UNDER § 5-320(B) OF THIS SUBTITLE MAY NOT BE FULFILLED:

(I) THE PARTY PROMPTLY SHALL:

1. FILE NOTICE WITH THE JUVENILE COURT; AND
2. NOTIFY ALL OF THE OTHER PARTIES;

(II) THE JUVENILE COURT SHALL SCHEDULE A HEARING TO OCCUR WITHIN 30 DAYS
 AFTER THE FILING OF THE NOTICE; AND

(III) IF THE PARTY WHOSE CONDITION CANNOT BE FULFILLED FAILS TO ENTER INTO A
 NEW CONSENT, THE JUVENILE COURT SHALL SET THE CASE IN FOR A PROMPT TRIAL ON THE MERITS OF THE
 PETITION.

(B) NONCONSENSUAL GUARDIANSHIP.

BEFORE A JUVENILE COURT GRANTS GUARDIANSHIP UNDER § 5-320(A)(2) OF THIS SUBTITLE, THE
 JUVENILE COURT SHALL HOLD A TRIAL ON THE MERITS OF THE PETITION.

(C) NOTICE OF TRIAL.

BEFORE A TRIAL UNDER THIS SECTION, A JUVENILE COURT SHALL GIVE NOTICE TO ALL OF THE PARTIES.

21 COMMITTEE NOTE: ~~This~~ Subsection (a)(1) of this section is new and added to require a hearing the references to hearings in
 former FL § 5-317(c)(1) and (g)(1).

Subsection (a)(2) of this section is new and added to reflect the addition of provisions for conditional consent in the
 referenced new § 5-320(b).

Subsection (b) of this section is new and added to emphasize the need for timely resolution of nonconsensual guardianship

cases.

Subsection (c) is new and added to state expressly the requirement for notice of trial on the merits.

The introductory clause of subsection (a)(1), "[i]n addition to ...", is substituted for the former "[e]xcept as provided", to make clear that a hearing under this subsection supplements mandated hearings.

In subsection (a)(1) of this section, the reference to "entering a guardianship order or otherwise ruling on a guardianship petition" is substituted for the former reference to "grant[ing] a decree awarding guardianship", to reflect that the ruling may deny guardianship.

22 Defined terms: "Guardianship" § 5-301

23 "Juvenile court" § 1-101

"Party" § 5-301

24 5-319. TIME LIMITS.

25 (A) MAXIMUM LIMITS.

26 SUBJECT TO **SUBSECTION (B) OF THIS SECTION**, A JUVENILE COURT SHALL
27 RULE ON A GUARDIANSHIP PETITION:

28 (1) WITHIN 180 DAYS AFTER THE PETITION IS FILED; AND

29 (2) WITHIN 45 DAYS AFTER THE EARLIER OF:

30 (I) RECEIPT OF ALL OF THE CONSENTS REQUIRED UNDER **THIS**
31 **PART II OF THIS SUBTITLE**; OR

32 (II) TRIAL ON THE MERITS.

33 (B) MINIMUM LIMITS.

1 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR GUARDIANSHIP OF A
2 CHILD UNDER **THIS SUBTITLE** BEFORE THE LATER OF:

3 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD; ~~OR~~

4 (2) EXPIRATION OF THE TIME **SET** FOR:

5 ~~(H)~~ REVOCATION OF CONSENT ~~SET~~, AND NOT WAIVED, UNDER **§**
6 **5-321(C) OF THIS SUBTITLE**; ~~AND OR~~

7 (3) ~~(H) — OBJECTION OF THE CHILD TO GUARDIANSHIP~~ **EXPIRATION OF THE TIME TO**
RESPOND TO THE SHOW CAUSE ORDER ISSUED UNDER § 5-316 OF THIS SUBTITLE.

8 COMMITTEE NOTE: Subsections (a)(1) and (b)(1) and (2)~~(H)~~ of this section are
9 derived from former FL §§ 5-317(d) and 5-324, as they related to CINAs.

10 Subsection (a)(2) of this section is new and added to provide an alternative
11 period based on the filing of consents or trial.

12 Subsection (b)~~(2)(H)~~ **(3)** of this section is new and added to reflect the **addition**
13 of **new § 5-320(a)(1)(i) 5-316**, which ~~allows a child to object~~ **requires issuance of a show cause order.**

14 Defined terms: "Child" § 5-301

15 "Guardianship" § 5-301

16 "Juvenile court" § 1-101

17 ~~"Parent" § 5-301~~

18 5-320. AUTHORITY TO GRANT GUARDIANSHIP.

19 (A) CONSENT AND ACQUIESCENCE OR BEST INTERESTS.

20 A JUVENILE COURT MAY GRANT GUARDIANSHIP OF A CHILD ONLY IF:

21 (1) (I) THE CHILD DOES NOT OBJECT; ~~AND~~

(II) **THE LOCAL DEPARTMENT:**

1. **FILED THE PETITION; OR**

2. **DID NOT OBJECT TO ANOTHER PARTY FILING THE PETITION; AND**

22 ~~(H)~~ (III) 1. EACH OF THE CHILD'S LIVING PARENTS CONSENTS:

23 A. IN WRITING;

24 B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD
25 BEFORE THE JUVENILE COURT; OR

26 C. BY FAILURE TO FILE A TIMELY NOTICE OF OBJECTION
27 AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS
28 SUBTITLE; OR

29 2. IF AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY
30 OF A STATE OR OTHER JURISDICTION HAS GRANTED A PERSON OTHER THAN A
31 PARENT THE POWER TO CONSENT TO ADOPTION, THE PERSON CONSENTS; OR

32 (2) IN ACCORDANCE WITH **§ 5-323 OF THIS SUBTITLE**, THE JUVENILE
33 COURT FINDS TERMINATION OF PARENTAL RIGHTS TO BE IN THE CHILD'S BEST

1 INTERESTS WITHOUT CONSENT OTHERWISE REQUIRED UNDER **THIS SECTION** OR
2 OVER THE CHILD'S OBJECTION.

3 (B) CONDITIONAL CONSENT OR ACQUIESCENCE.

4 ~~THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A PERSON FROM~~
5 ~~CONDITIONING CONSENT, OR A CHILD FROM CONDITIONING ACQUIESCENCE, ON~~
6 ~~ADOPTION INTO A SPECIFIC FAMILY.~~

A PERSON:

(1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A SPECIFIC FAMILY
THAT A LOCAL DEPARTMENT APPROVES FOR THE PLACEMENT; BUT

(2) MAY NOT CONDITION CONSENT OR ACQUIESCENCE ON ANY FACTOR OTHER THAN
PLACEMENT INTO A SPECIFIC FAMILY.

7 COMMITTEE NOTE: Subsection (a)(1)(i) and (ii) of this section is new and added to
8 require the acquiescence of a child to having a guardian and of a local department to award of guardianship.

9 Subsection (a)(1)(iii)1 of this section is derived from former FL § 5-317(d)
10 and, as it related to CINAs, 5-317(c)(2), as it related to CINAs, and revised to delineate the manner in methods by
11 which consent is to may be given in addition to failure to make timely objection. Subsection (a)(1)(iii)1 is not meant to
change the current meaning of "deemed consent".

12 Subsection (a)(1)(iii)2 of this section is new and added to recognize actions
13 by other jurisdictions, in accordance with former FL §§ 5-313.1 and 5-326 - new §
14 5-305.

15 Subsections (a)(2) and (b) of this section are new and added to provide
16 expressly for conditional consent or acquiescence in conjunction with new
17 §§ 5-317(a)(1)(iii) 5-318(a)(2)(iii) and 5-327, which state the effect of noncompliance. The requirement for approval by a
local department should not be construed to require approval before entry of a guardianship order.

18 In subsection (a)(1)(iii)1 of this section, the former reference to a "natural"
19 parent is deleted, to reflect that the parental rights of a nonbiological - i.e.,
20 adoptive - parent can be terminated in the same manner as a biological
21 parent's can.

22 Defined terms: "Child" § 5-301

23 "Guardianship" § 5-301

24 "Juvenile court" § 1-101

"Local department" § 1-101

25 "Parent" § 5-301

"Party" § 5-301

26 "Person" § 1-101

27 "State" § 1-101

28 5-321. CONSENT.

29 (A) CONTENTS AND ATTACHMENTS.

30 (1) CONSENT OF A PARENT TO GUARDIANSHIP MAY INCLUDE A WAIVER OF THE RIGHT TO
31 NOTICE OF:

32 (I) THE FILING OF A PETITION UNDER **THIS SUBTITLE**; AND

33 (II) A HEARING UNDER **THIS SUBTITLE**.

34 (2) CONSENT TO GUARDIANSHIP ENTERED INTO ON THE RECORD SHALL
35 INCLUDE A WAIVER OF A REVOCATION PERIOD.

36 (3) CONSENT OF A PARTY TO GUARDIANSHIP IS NOT VALID UNLESS:

1 (I) THE PARTY HAS RECEIVED PRIOR WRITTEN OR ON THE RECORD
2 NOTICE OF:

3 1. THE REVOCATION PROVISIONS IN **SUBSECTION (C)(1) OF**
4 **THIS SECTION;**

5 2. THE SEARCH RIGHTS OF ADOPTEES AND PARENTS UNDER **§ 5-359 OF THIS**
6 **SUBTITLE AND**
7 **SUBTITLES 4B AND 4D OF THIS TITLE; AND**

[NOTE: If the veto of HB 232 (2004) is overriddden, subitem 2 should read “the search rights of adoptees, parents, and siblings ...”.]

7 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER **§ 5-359**
8 **OF THIS SUBTITLE;**

9 (II) IF SIGNED AFTER COUNSEL ENTERS AN APPEARANCE FOR A
10 PARENT, THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL STATING
11 THAT:

12 1. COUNSEL REVIEWED THE CONSENT WITH THE PARENT;
13 AND

14 2. THE PARENT CONSENTS KNOWINGLY AND VOLUNTARILY;
15 AND

16 (III) THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF
17 COUNSEL APPOINTED UNDER **§ 5-307(A) OF THIS SUBTITLE** STATING THAT A PARENT
18 WHO IS A MINOR OR HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

19 (B) COPY.

20 (1) WHENEVER A LOCAL DEPARTMENT RECEIVES CONSENT TO
21 GUARDIANSHIP OF AN INDIVIDUAL BEFORE A GUARDIANSHIP PETITION IS FILED,
22 THE LOCAL DEPARTMENT PROMPTLY SHALL:

23 (I) FILE THE CONSENT IN THE INDIVIDUAL'S CINA CASE; AND

24 (II) SERVE A COPY OF THE CONSENT ON:

25 1. EACH LIVING PARENT OF THE INDIVIDUAL;

26 2. THE PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
27 CASE; AND

28 3. THE INDIVIDUAL'S LAST ATTORNEY OF RECORD IN THE
29 CINA CASE.

30 (2) WHENEVER A PARTY OBTAINS CONSENT TO GUARDIANSHIP AFTER A
31 GUARDIANSHIP PETITION IS FILED, THE PARTY PROMPTLY SHALL:

32 (I) FILE THE CONSENT WITH THE JUVENILE COURT IN WHICH THE
33 PETITION IS PENDING; AND

34 (II) SERVE A COPY OF THE CONSENT ON EACH OTHER PARTY.

1 (C) REVOCATION PERIOD; WAIVER.

2 (1) SUBJECT TO **PARAGRAPH (2) OF THIS SUBSECTION**, A PERSON MAY
3 REVOKE CONSENT TO GUARDIANSHIP ANY TIME WITHIN THE LATER OF:

4 (I) 30 DAYS AFTER THE PERSON SIGNS THE CONSENT; OR

5 (II) 30 DAYS AFTER THE CONSENT IS FILED AS REQUIRED UNDER
6 **THIS SECTION**.

7 (2) CONSENT TO GUARDIANSHIP UNDER **SUBSECTION (A)(2) OF THIS**
8 **SECTION** IS IRREVOCABLE.

9 (D) INVALIDATION OF CONDITIONAL CONSENT OR ACQUIESCENCE.

10 IF, AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION
11 OF A CHILD, THE JUVENILE COURT FINDS THAT A CONDITION FOR GUARDIANSHIP
12 WILL NOT BE FULFILLED, THE CONSENT OR ACQUIESCENCE BECOMES INVALID.

13 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former FL
14 § 5-319(d)(1) and, as it related to guardianships, § 5-322(a)(2).

15 Subsections (a)(2) and (c)(2) of this section are new and added to require a
16 waiver if consent is given on-the-record.

17 Subsection (a)(3)(i) of this section is derived from former FL § 5-314(a), as
18 it related to guardianship.

19 Subsection (a)(3)(ii) of this section is new and added to provide for counsel's
20 affidavit as to the voluntariness of consent.

21 Subsection (a)(3)(iii) of this section is derived from former FL § 5-314(b),
22 as it related to guardianship, and the substance of former FL § 5-301(h)
23 and revised to apply to disabled, as well as minor, parents.

Subsection (b) is new and added to ensure that documents relating to consent are integrated into the appropriate court file.

24 Subsection (c)(1) of this section is derived from former FL § 5-317(e) and
25 revised to provide an alternative deadline based on the filing date of the
26 consent.

27 Subsection (d) of this section is new and added to facilitate compliance
28 with former FL § 5-322(d) - **new § 5-320(b)**.

29 In subsection (a)(1)(ii) and the introductory language of subsection (d) of
30 this section, the former references to a "natural" parent are deleted, to
31 reflect that the parental rights of a nonbiological - i.e., adoptive - parent
32 can be terminated in the same manner as a biological parent's can.

33 As to "minor", see **Art. 1, § 24 of the Code**.

34 Defined terms: "Child" § 5-301

35 "CINA case" § 1-101

1 "Disability" § 5-101

2 "Guardianship" § 5-301

3 "Includes" § 1-101

4 "Including" § 1-101

5 "Juvenile court" § 1-101

6 "Local department" § 1-101

7 "Parent" § 5-301

8 "Party" § 5-301

9 "Person" § 1-101

10 5-322. GRANT OF GUARDIANSHIP - CONSENSUAL.

11 (A) AUTHORITY.

12 IF ALL CONSENTS FOR GUARDIANSHIP OF A CHILD HAVE BEEN GIVEN IN
13 ACCORDANCE WITH **THIS SUBTITLE** AND THE CHILD HAS NOT OBJECTED, A
14 JUVENILE COURT MAY ENTER AN ORDER FOR GUARDIANSHIP.

15 (B) NOTICE.

16 (1) WITHIN 5 DAYS AFTER ENTRY OF AN ORDER UNDER **THIS SECTION**, A
17 JUVENILE COURT SHALL GIVE NOTICE OF THE ORDER TO EACH PARTY OR, IF
18 REPRESENTED, COUNSEL.

19 (2) NOTICE UNDER **THIS SUBSECTION** SHALL BE BY FIRST CLASS MAIL.

20 (3) NOTICE **TO A PARTY** UNDER **THIS SUBSECTION** SHALL BE SENT TO THE PARTY'S
21 ~~LAST KNOWN~~ ADDRESS **KNOWN TO THE JUVENILE COURT**.

22 COMMITTEE NOTE: This section is new and added to set forth the manner of
23 disposing of consensual guardianships.

24 Defined terms: "Child" § 5-301

25 "Guardianship" § 5-301

26 "Juvenile court" § 1-101

27 "Party" § 5-301

28 5-323. GRANT OF GUARDIANSHIP – NONCONSENSUAL.

29 (A) DEFINED TERM.

30 IN **THIS SECTION**, "DRUG" MEANS COCAINE, HEROIN, OR A DERIVATIVE OF
31 COCAINE OR HEROIN.

32 (B) AUTHORITY.

33 IF, AFTER CONSIDERATION OF FACTORS AS REQUIRED IN **THIS SECTION**, A
34 JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT
35 TERMINATING THE RIGHTS OF A PARENT IS IN A CHILD'S BEST INTERESTS, THE

1 JUVENILE COURT MAY GRANT GUARDIANSHIP OF THE CHILD WITHOUT CONSENT
2 OTHERWISE REQUIRED UNDER **THIS SUBTITLE** AND OVER THE CHILD'S OBJECTION.

3 (C) EXEMPTION FROM CONSIDERATIONS.

4 A JUVENILE COURT NEED NOT CONSIDER ANY FACTOR LISTED IN **SUBSECTION**
5 **(D) OF THIS SECTION** IN DETERMINING A CHILD'S BEST INTERESTS IF, AFTER A
6 THOROUGH INVESTIGATION BY A LOCAL DEPARTMENT, THE JUVENILE COURT FINDS
7 THAT:

8 (1) THE IDENTITIES OF THE CHILD'S PARENTS ARE UNKNOWN; AND

9 (2) DURING THE 60 DAYS IMMEDIATELY AFTER THE CHILD'S
10 ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE, NO ONE HAS CLAIMED TO BE
11 THE CHILD'S PARENT.

12 (D) CONSIDERATIONS.

13 EXCEPT AS PROVIDED IN **SUBSECTION (C) OF THIS SECTION**, IN RULING ON A
14 PETITION FOR GUARDIANSHIP OF A CHILD, A JUVENILE COURT SHALL GIVE PRIMARY
15 CONSIDERATION TO THE HEALTH AND SAFETY OF THE CHILD AND CONSIDERATION
16 TO ALL OTHER FACTORS NEEDED TO DETERMINE WHETHER TERMINATING A
17 PARENT'S RIGHTS IS IN THE CHILD'S BEST INTERESTS, INCLUDING:

18 (1) (I) ALL SERVICES OFFERED TO THE PARENT BEFORE THE CHILD'S
19 PLACEMENT, WHETHER OFFERED BY A LOCAL DEPARTMENT, ANOTHER AGENCY, OR
20 A PROFESSIONAL;

21 (II) THE EXTENT, NATURE, AND TIMELINESS OF SERVICES
22 OFFERED BY A LOCAL DEPARTMENT TO FACILITATE REUNION OF THE CHILD AND
23 PARENT; AND

24 (III) THE EXTENT TO WHICH A LOCAL DEPARTMENT AND PARENT
25 HAVE FULFILLED THEIR OBLIGATIONS UNDER A SOCIAL SERVICES AGREEMENT, IF
26 ANY;

27 (2) THE RESULTS OF THE PARENT'S EFFORT TO ADJUST THE PARENT'S
28 CIRCUMSTANCES, CONDITION, OR CONDUCT TO MAKE IT IN THE CHILD'S BEST
29 INTERESTS FOR THE CHILD TO BE RETURNED TO THE PARENT'S HOME, INCLUDING:

30 (I) THE EXTENT TO WHICH THE PARENT HAS MAINTAINED
31 REGULAR CONTACT WITH:

32 1. THE CHILD;

33 2. THE LOCAL DEPARTMENT TO WHICH THE CHILD IS
34 COMMITTED; AND

35 3. IF FEASIBLE, THE CHILD'S CAREGIVER;

1 (II) THE PARENT'S PAYMENT OF A REASONABLE PART OF THE
2 CHILD'S SUPPORT, IF THE PARENT IS FINANCIALLY ABLE TO DO SO;

3 (III) THE EXISTENCE OF A PARENTAL DISABILITY THAT MAKES THE
4 PARENT CONSISTENTLY UNABLE TO CARE FOR THE CHILD'S IMMEDIATE AND
5 ONGOING PHYSICAL OR PSYCHOLOGICAL NEEDS FOR LONG PERIODS OF TIME; AND

6 (IV) WHETHER ADDITIONAL SERVICES WOULD BE LIKELY TO BRING
7 ABOUT A LASTING PARENTAL ADJUSTMENT SO THAT THE CHILD COULD BE
8 RETURNED TO THE PARENT WITHIN ~~A REASONABLE~~ AN ASCERTAINABLE TIME ~~CONSIDERING THE~~
9 ~~CHILD'S AGE AND CIRCUMSTANCES,~~ NOT TO EXCEED 18 MONTHS FROM THE DATE OF PLACEMENT UNLESS
THE JUVENILE COURT MAKES A SPECIFIC FINDING THAT IT IS IN THE CHILD'S BEST INTERESTS TO EXTEND THE
TIME FOR A SPECIFIED PERIOD;

10 (3) WHETHER:

11 (I) THE PARENT HAS ABUSED OR NEGLECTED THE CHILD OR A
12 MINOR AND THE SERIOUSNESS OF THE ABUSE OR NEGLECT;

13 (II) 1. AS EVIDENCED BY AN APPROPRIATE TOXICOLOGY TEST
14 OF THE MOTHER OR CHILD:

15 A. ON ADMISSION TO A HOSPITAL FOR THE CHILD'S
16 DELIVERY, THE MOTHER WAS POSITIVE FOR A DRUG; OR

17 B. THE CHILD WAS BORN EXPOSED TO A DRUG; AND

18 2. THE MOTHER REFUSED THE LEVEL OF DRUG TREATMENT
19 RECOMMENDED BY A QUALIFIED ADDICTIONS SPECIALIST, AS DEFINED IN § 5-1201
20 OF THIS TITLE. OR BY A PHYSICIAN OR PSYCHOLOGIST, AS DEFINED IN THE HEALTH
21 OCCUPATIONS ARTICLE;

22 (III) THE PARENT SUBJECTED THE CHILD TO:

23 1. CHRONIC ABUSE;

24 2. CHRONIC AND LIFE-THREATENING NEGLECT;

25 3. SEXUAL ABUSE; OR

26 4. TORTURE;

27 (IV) THE PARENT HAS BEEN CONVICTED, IN ANY STATE OR ANY
28 COURT OF THE UNITED STATES, OF:

29 1. A CRIME OF VIOLENCE AGAINST ~~THE CHILD OR~~ A MINOR
30 OFFSPRING OF THE PARENT, ~~THE CHILD, OR ANOTHER PARENT OF THE CHILD;~~ OR

31 2. AIDING, ABETTING, CONSPIRING, OR SOLICITING TO
32 COMMIT A CRIME DESCRIBED IN SUBITEM 1 OF THIS ITEM; AND

33 (V) THE PARENT HAS INVOLUNTARILY LOST PARENTAL RIGHTS TO
34 A SIBLING OF THE CHILD; AND

1 (4) (I) THE CHILD'S EMOTIONAL TIES WITH AND FEELINGS TOWARD
2 THE CHILD'S PARENTS, THE CHILD'S SIBLINGS, AND OTHERS WHO MAY AFFECT THE
3 CHILD'S BEST INTERESTS SIGNIFICANTLY;

4 (II) THE CHILD'S ADJUSTMENT TO:

- 5 1. COMMUNITY;
6 2. HOME;
7 3. PLACEMENT; AND
8 4. SCHOOL;

9 (III) THE CHILD'S FEELINGS ABOUT SEVERANCE OF THE
10 PARENT-CHILD RELATIONSHIP; AND

11 (IV) THE LIKELY IMPACT OF TERMINATING PARENTAL RIGHTS ON
12 THE CHILD'S WELL-BEING.

13 (E) WAIVER OF LOCAL DEPARTMENT'S OBLIGATION.

14 (1) A JUVENILE COURT SHALL CONSIDER THE EVIDENCE UNDER
15 **SUBSECTION (D)(3)(I) AND (II) OF THIS SECTION** AS TO A CONTINUING OR SERIOUS
16 ACT OR CONDITION AND MAY WAIVE A LOCAL DEPARTMENT'S OBLIGATIONS FOR
17 SERVICES DESCRIBED IN **SUBSECTION (D)(1) OF THIS SECTION** IF, AFTER
18 APPROPRIATE EVALUATION OF EFFORTS MADE AND SERVICES OFFERED, THE
19 JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT A WAIVER IS
20 IN THE CHILD'S BEST INTERESTS.

21 (2) A JUVENILE COURT MAY WAIVE A LOCAL DEPARTMENT'S
22 OBLIGATIONS FOR SERVICES DESCRIBED IN **SUBSECTION (D)(1) OF THIS SECTION** IF
23 THE JUVENILE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT ONE OR
24 MORE OF THE ACTS OR CIRCUMSTANCES LISTED IN **SUBSECTION (D)(3)(III), (IV), OR (V)**
25 **OF THIS SECTION** EXISTS.

26 (3) IF A JUVENILE COURT WAIVES REUNIFICATION EFFORTS UNDER **§**
27 **3-812(D) OF THE COURTS ARTICLE**, THE JUVENILE COURT MAY NOT CONSIDER ANY
28 FACTOR UNDER **SUBSECTION (D)(1)(I) OF THIS SECTION**.

29 (F) SPECIFIC FINDING REQUIRED.

30 IF A JUVENILE COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN
31 **SUBSECTION (D)(3)(III), (IV), OR (V) OF THIS SECTION** EXISTS, THE JUVENILE COURT
32 SHALL MAKE A SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER
33 RETURN OF THE CHILD TO A PARENT'S CUSTODY POSES AN UNACCEPTABLE RISK TO
34 THE CHILD'S FUTURE SAFETY.

35 (G) CONSTRUCTION AS VOLUNTARY.

1 IF A PARENT HAS CONSENTED TO GUARDIANSHIP IN ACCORDANCE WITH **§**
 2 **5-320(A)(1)(b)(i)(iii) OF THIS SUBTITLE**, THE LOSS OF PARENTAL RIGHTS SHALL BE
 3 CONSIDERED VOLUNTARY.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to allow
 5 concise reference to the drugs referenced in former FL § 5-313(d)(1)(iv)1.

6 Subsections (b), (c), (d)(1) through (3) and (4)(i) and (ii)1, 2, and 4, (e), and
 7 (f) of this section are derived from former FL § 5-313(b), (c), (d)(1)(i), (ii),
 8 (iv), and (v) and (3) through (5), and the introductory language of (a), as
 9 related to CINAs, and, in conjunction with **new § 5-302**, revised to apply
 10 only to those CINAs committed to a local department.

11 Subsection (d)(4)(ii)3, (iii), and (iv) of this section is new and added for
 12 completeness.

13 Subsection (g) of this section is new and added to delineate voluntary TPR
 14 under this subtitle.

15 In subsections (b) through (d) and (f) of this section, the former word
 16 "natural" is omitted, to reflect that the parental rights of a nonbiological -
 17 i.e., adoptive - parent can be terminated in the same manner as a
 18 biological parent's can. In subsection (d)(3)(ii)2 of this section, however, the
 19 word "mother" is substituted for the former reference to a "natural parent",
 20 to conform to subsection (d)(3)(ii)1 of this section.

21 In subsection (b) of this section, the phrase "after consideration of factors
 22 as required in this section" is added to make note of the requirement under
 23 subsection (d) of this section to consider certain factors unless exempted
 24 under subsection (c) of this section.

25 Also in subsection (b) of this section, the phrase "over the child's objection"
 26 is added to conform to **new § 5-320(a)(1)(i)**.

27 Also in subsection (b) of this section, the former word "decree" is omitted.

28 Subsection (c) of this section is revised to obviate the need to consider
 29 certain factors in instances of abandonment, based on the exception in "the
 30 case of an abandoned child" in former FL § 5-313(c). Accordingly, the
 31 introductory language of subsection (d) of this section, "[e]xcept as
 32 provided in subsection (c) ...", is added.

33 Subsection (c)(2) of this section is revised to make the time limit for failure
 34 to claim parentage run from adjudication rather than abandonment.

35 In subsection (c)(2) of this section, reference to "60 days" is substituted for
 36 the former reference to "2 months", to allow easier calculation of the
 37 period.

38 In subsections (d)(1) and (2)(i)2 and (e)(1) and (2) and the introductory

language to subsection (c) of this section, the newly defined term "local department" is substituted for the former references to a "child placement agency", "agency to which the child is committed", and "custodian", to conform to the scope of this subtitle.

In the introductory language to subsection (d) of this section, the reference to "ruling on a petition" is substituted for the former reference to "determining whether it is in the best interests of the child to terminate a natural parent's rights as to the child in any case", for brevity.

In subsection (d)(2)(i)1 of this section, the former reference to contact with a child "under a plan to reunite" a parent and child and the former bar against affording significance to an "incidental visit ... or contribution" are omitted.

In subsection (d)(2)(i)3 of this section, the newly defined word "caregiver" is substituted for the former reference to a "custodian".

Also in subsection (d)(2)(i)3 of this section, the phrase "if feasible" is added, to reflect that a caregiver may preclude contact.

In subsection (d)(2)(ii) of the section, the defined term "support" is substituted for the former reference to "substitute physical care and maintenance".

In subsection (d)(2)(iv) of this section, reference to a ~~"reasonable" time is substituted for the former reference to "an ascertainable time, not exceeding 18 months from the time of placement"~~ and **an extension of time by a juvenile court is added**, and the former bar against consideration of the inducement afforded by a continued relationship **is deleted**.

In subsection (d)(3)(i) of this section, the word "minor" is substituted for the former reference to "any child in the family", to make the referenced abuse or neglect applicable to anyone under the age of 18 years regardless of relationship to the CINA.

Also in subsection (d)(3)(i) of this section, reference to a determination of the "seriousness" of the abuse or neglect is substituted for the former reference to a determination as "continuing or serious", as more appropriate in light of the gamut of potential abuse or neglect and the requirements in former FL § 5-313(d)(3) - **new subsection (e)(1)**.

Subsection (d)(3)(ii)1 of this section is revised so that a "toxicology" test is required to determine exposure, as well as status of the mother on admission.

In subsection (d)(3)(ii)2 of this section, reference to "a qualified addictions specialist ... or ... physician or psychologist" is added to ensure a parent is held to a recommendation only of a qualified counselor. **As initially enacted by Chapters 367 and 368, Acts of 1997, the requirement would apply only if \$1.7 million was appropriated to pay for recommended treatment for indigent mothers. The Committee believes the availability of money should determine the application of this requirement from year to year.**

1 Also in subsection (d)(3)(ii)2 of this section, the former reference to
2 "fail[ing] to fully participate" is omitted as included in the reference to
3 refusal.

4 In subsection (d)(3)(iv)1 of this section, the more limited phrase "against
5 the child or a minor offspring of the parent" is substituted for the former
6 phrase "against the child, the other natural parent of the child, another
7 child of the natural parent, or any person who resides in the household of
8 the natural parent".

9 In subsection (e)(1) and (2) of this section, references to "services described
10 in subsection (d)(1) ..." are substituted for the cross-references to former
11 FL § 5-313(c), to identify the referenced obligations clearly.

12 In subsection (e)(1) of this section, the narrower reference to "subsection
13 (d)(3)(i) and (ii)" is substituted for the former reference to "paragraph (1)(i)
14 through (iv)", to exclude the provision as to parental disability - now
15 revised in subsection (d)(2)(iii) of this section - and the requirement for a
16 determination as to repeated failure to clothe etc. a child, under FL §
17 5-313(d)(1)(iii), which is omitted as included in determinations as to CINA
18 status and financial ability.

19 Also in subsection (e)(1) of this section, reference to services "offered" is
20 substituted for the former reference to services "rendered", to allow
21 evidence of a refusal to accept services.

22 Subsection (e)(2) of this section is revised to allow, rather than require,
23 waiver, to ensure that services that a court considers in a child's best
24 interests can be continued.

25 Former FL § 5-313(a)(1) through (3), which allowed adjudication as a
26 CINA or "a neglected child, an abused child, or a dependent child", or
27 abandonment as an alternative basis for nonconsensual TPR, is omitted in
28 light of the limited scope of this subtitle under **new § 5-302**.

29 Former FL § 5-313(d)(2), which barred nonprovision of medical treatment
30 based on religious belief from constituting negligent parenting, is omitted.

31 Defined terms: "Caregiver" § 5-301

32 "Child" § 5-301

33 "Child in need of assistance" § 1-101

34 "Crime of violence" § 5-101

35 "Disability" § 5-101

36 "Guardianship" § 5-301

37 "Includes" § 1-101

38 "Including" § 1-101

39 "Juvenile court" § 1-101

40 "Local department" § 1-101

41 "Parent" § 5-301

42 "State" § 1-101

1 "Support" § 1-101

2 5-324. CONTENTS OF ORDER.

3 (A) DENIAL OF GUARDIANSHIP.

4 IN AN ORDER DENYING GUARDIANSHIP OF A CHILD, A JUVENILE COURT SHALL
5 INCLUDE:

6 (1) A SPECIFIC FACTUAL FINDING ON WHETHER REASONABLE EFFORTS
7 HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY PLAN;

8 (2) ANY ORDER UNDER **TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE** IN
9 THE CHILD'S BEST INTERESTS; AND

10 (3) A DATE, NO LATER THAN 180 DAYS AFTER THE DATE OF THE ORDER,
11 FOR THE NEXT REVIEW HEARING UNDER **TITLE 3, SUBTITLE 8 OF THE COURTS**
12 **ARTICLE**.

13 (B) GRANT OF GUARDIANSHIP.

14 (1) IN AN ORDER GRANTING GUARDIANSHIP OF A CHILD, A JUVENILE
15 COURT:

16 (I) SHALL INCLUDE A DIRECTIVE TERMINATING THE CHILD'S CINA
17 CASE;

18 (II) CONSISTENT WITH THE CHILD'S BEST INTERESTS:

19 1. MAY PLACE THE CHILD:

20 A. SUBJECT TO **PARAGRAPH (2) OF THIS SUBSECTION**, IN A
21 SPECIFIC TYPE OF FACILITY; OR

22 B. WITH A SPECIFIC INDIVIDUAL;

23 2. MAY DIRECT PROVISION OF SERVICES BY A LOCAL
24 DEPARTMENT TO:

25 A. THE CHILD; OR

26 B. THE CHILD'S CAREGIVER;

27 3. SUBJECT TO A LOCAL DEPARTMENT RETAINING LEGAL
28 GUARDIANSHIP, MAY AWARD TO A CAREGIVER LIMITED AUTHORITY TO MAKE AN
29 EMERGENCY OR ORDINARY DECISION AS TO THE CHILD'S CARE, EDUCATION,
30 MENTAL OR PHYSICAL HEALTH, OR WELFARE;

31 4. MAY ALLOW ACCESS TO A MEDICAL OR OTHER RECORD OF
32 THE CHILD;

1 MAY ALLOW VISITATION FOR THE CHILD WITH A SPECIFIC
2 INDIVIDUAL;

3 MAY APPOINT A COURT-APPOINTED SPECIAL ADVOCATE FOR ANY
PURPOSE SET FORTH
4 UNDER § 3-830 OF THE COURTS ARTICLE; AND

5 SHALL DIRECT THE PROVISION OF ANY OTHER SERVICE
6 OR TAKING OF ANY OTHER ACTION AS TO THE CHILD'S EDUCATION, HEALTH, AND
7 WELFARE, INCLUDING:

8 A. FOR A CHILD WHO IS AT LEAST 16 YEARS OLD, SERVICES
9 NEEDED TO HELP THE CHILD'S TRANSITION FROM GUARDIANSHIP TO
10 INDEPENDENCE; OR

11 B. FOR A CHILD WITH A DISABILITY, SERVICES TO OBTAIN
12 ONGOING CARE, IF ANY, NEEDED AFTER THE GUARDIANSHIP CASE ENDS;

13 (III) IF ENTERED UNDER § 5-322 OF THIS SUBTITLE, SHALL STATE
14 EACH PARTY'S RESPONSE TO THE PETITION;

15 (IV) SHALL STATE A SPECIFIC FACTUAL FINDING ON WHETHER
16 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY
17 PLAN;

18 (V) SHALL STATE WHETHER THE CHILD'S PARENT HAS WAIVED
19 THE RIGHT TO NOTICE; AND

20 (VI) SHALL SET A DATE, NO LATER THAN 180 DAYS AFTER THE DATE
21 OF THE ORDER. FOR THE INITIAL GUARDIANSHIP REVIEW HEARING UNDER § 5-326
22 OF THIS SUBTITLE.

23 (2) (I) EXCEPT FOR EMERGENCY COMMITMENT IN ACCORDANCE
24 WITH § 10-617 OF THE HEALTH - GENERAL ARTICLE OR AS EXPRESSLY AUTHORIZED
25 BY A JUVENILE COURT IN ACCORDANCE WITH THE STANDARDS IN § 3-819(G) OR (H)
26 OF THE COURTS ARTICLE, A CHILD MAY NOT BE COMMITTED OR OTHERWISE PLACED
27 FOR INPATIENT CARE OR TREATMENT IN A PSYCHIATRIC FACILITY OR A FACILITY
28 FOR THE DEVELOPMENTALLY DISABLED.

29 (II) A JUVENILE COURT SHALL INCLUDE IN A COMMITMENT ORDER
30 UNDER THIS PARAGRAPH A REQUIREMENT THAT THE GUARDIAN:

31 1. FILE A PROGRESS REPORT WITH THE JUVENILE COURT AT
32 LEAST EVERY 180 DAYS; AND

33 2. PROVIDE A COPY OF EACH REPORT TO EACH PERSON
34 ENTITLED TO NOTICE OF A REVIEW HEARING UNDER § 5-326 OF THIS SUBTITLE.

35 (III) EVERY 180 DAYS DURING A COMMITMENT OR PLACEMENT
36 UNDER THIS PARAGRAPH, A JUVENILE COURT SHALL HOLD A HEARING TO

1 DETERMINE WHETHER THE STANDARDS IN **§ 3-819(G) OR (H) OF THE COURTS**
2 **ARTICLE** CONTINUE TO BE MET.

3 COMMITTEE NOTE: Subsections (a) and (b)(1)(i), (ii)1, 2, and 4 through 7, (iii),
4 (iv), and (v) of this section are new and added to state expressly the
5 authority of a guardianship.

6 Subsection (b)(1)(ii)3 of this section is derived from former FL § 5-317(g)(2)
7 and, except for the reference to investigations and hearings, (1), and the
8 substance of former § 5-301(g), which defined "joint guardianship".

9 Subsection (b)(1)(vi) of this section is **new and** added to ensure scheduling of an
10 initial review hearing.

11 Defined terms: "Caregiver" § 5-301

12 "Child" § 5-301

13 "CINA case" § 1-101

14 "Disability" § 5-101

15 "Guardianship" § 5-301

16 "Includes" § 1-101

17 "Including" § 1-101

18 "Juvenile court" § 1-101

19 "Local department" § 1-101

20 "Parent" § 5-301

21 "Party" § 5-301

22 "Person" § 1-101

23 5-325. EFFECT OF ORDER FOR GUARDIANSHIP.

24 (A) PARENT-CHILD RELATIONSHIP.

25 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

26 (1) EXCEPT AS **OTHERWISE** PROVIDED IN ~~§ 5-326 OF THIS SUBTITLE, § 4-414 OF THE~~
27 **ESTATES AND TRUSTS ARTICLE, AND § 2-123 OF THE REAL PROPERTY ARTICLE,**
28 TERMINATES A PARENT'S DUTIES, OBLIGATIONS, AND RIGHTS TOWARD THE
29 INDIVIDUAL;

30 (2) ELIMINATES THE NEED FOR A FURTHER CONSENT BY A PARENT TO
31 ADOPTION OF THE INDIVIDUAL;

32 (3) GRANTS A LOCAL DEPARTMENT GUARDIANSHIP WITH THE RIGHT TO
33 CONSENT TO THE INDIVIDUAL'S ADOPTION **OR OTHER PLANNED PERMANENT LIVING ARRANGEMENT**; AND

34 (4) UNLESS A TIMELY APPEAL IS FILED, TERMINATES THE INDIVIDUAL'S
35 CINA CASE.

36 (B) GUARDIAN.

1 (1) UNLESS A JUVENILE COURT GIVES LEGAL CUSTODY TO ANOTHER
2 PERSON, A CHILD'S GUARDIAN UNDER **THIS SUBTITLE** HAS LEGAL CUSTODY.

3 (2) (I) UNLESS A JUVENILE COURT ORDERS OTHERWISE AND
4 SUBJECT TO REVIEW BY THE JUVENILE COURT, A CHILD'S GUARDIAN MAY MAKE ALL
5 DECISIONS AFFECTING THE CHILD'S EDUCATION, HEALTH, AND WELFARE,
6 INCLUDING CONSENTING:

- 7 1. TO ADOPTION OF THE CHILD;
- 8 2. TO APPLICATION BY THE CHILD FOR A DRIVER'S LICENSE;
- 9 3. TO ENLISTMENT BY THE CHILD IN THE ARMED FORCES;
- 10 4. TO MARRIAGE OF THE CHILD; AND
- 11 5. SUBJECT TO **SUBPARAGRAPHS (II) AND (III) OF THIS**
12 **SUBSECTION** **PARAGRAPH**, TO MEDICAL, PSYCHIATRIC, OR SURGICAL TREATMENT.

13 (II) A CHILD'S GUARDIAN:

14 1. MAY HAVE THE CHILD ADMITTED TO AN INPATIENT
15 PSYCHIATRIC FACILITY IN ACCORDANCE WITH THE STANDARDS FOR EMERGENCY
16 COMMITMENT IN **§ 10-617 OF THE HEALTH - GENERAL ARTICLE** FOR NOT MORE THAN
17 20 DAYS;

18 2. EXCEPT AS PROVIDED IN **ITEM 1 OF THIS SUBPARAGRAPH**,
19 MAY NOT PLACE THE CHILD IN AN INPATIENT PSYCHIATRIC FACILITY WITHOUT
20 EXPRESS AUTHORIZATION OF THE JUVENILE COURT.

21 (III) 1. A CHILD'S GUARDIAN MAY NOT WITHHOLD OR WITHDRAW
22 A LIFE-SUSTAINING PROCEDURE WITHOUT THE PRIOR AUTHORIZATION OF A
23 JUVENILE COURT.

24 2. IN DECIDING WHETHER TO GRANT AUTHORIZATION, A
25 JUVENILE COURT SHALL APPLY THE FACTORS SET FORTH IN **§ 13-711(B) OF THE**
26 **ESTATES AND TRUSTS ARTICLE**.

27 (3) A LOCAL DEPARTMENT SHALL NOTIFY A JUVENILE COURT, A CHILD'S
28 ATTORNEY, AND THE ATTORNEY FOR EACH OTHER PARTY WHO HAS NOT WAIVED
29 THE RIGHT TO NOTICE:

30 (I) WITHIN 2 BUSINESS DAYS AFTER THE CHILD'S PLACEMENT
31 CHANGES OR THE TIME REQUIRED UNDER **§ 5-326(B) OF THIS SUBTITLE**, WHICHEVER
32 IS SHORTER;

33 (II) WITHIN 2 BUSINESS DAYS AFTER THE CHILD IS PLACED IN A
34 PSYCHIATRIC FACILITY; OR

35 (III) WITHIN 2 BUSINESS DAYS AFTER THE CHILD IS ABSENT FROM
36 A PLACEMENT FOR MORE THAN A WEEK.

1 (4) A LOCAL DEPARTMENT SHALL GIVE A CHILD'S ATTORNEY THE
2 CHILD'S NEW ADDRESS AND TELEPHONE NUMBER WITHIN 2 DAYS AFTER THE
3 ADDRESS OR TELEPHONE NUMBER CHANGES.

4 COMMITTEE NOTE: Subsection (a)(1) and (2) of this section is derived from
5 former FL § 5-317(f)(1) and (3), as it related to guardianships.

6 Subsection (a)(3) of this section is substituted for former FL § 5-317(f)(4),
7 to state expressly the scope of a local department's authority with respect
8 to an individual committed to the department.

9 Subsection (a)(4) of this section is new and added to state a specific
10 termination date for a CINA case.

11 Subsection (b) of this section is new and added to state expressly the
12 powers and duties of a guardian under this subtitle.

13 In the introductory language of subsection (a) of this section, the word
14 "order" is substituted for the former, more archaic "decree".

15 In subsection (a)(1) and (2) of this section, the former word "natural" is
16 omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive
17 - parent can be terminated in the same manner as a biological parent's
18 can.

19 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
20 provided ...", is substituted for the former exception "this section" - i.e.,
21 former FL § 5-308 - to reflect the recodification of former § 5-308(d).

22 Former FL § 5-317(f)(2), which described guardianship as obviating the
23 need for notice, is omitted as unnecessary in light of the substantive
24 provision of the referenced FL § 5-319 - **new § 5-326** of this subtitle.

25 Former FL § 5-318, which barred consent to long-term care in
26 guardianships created "before June 1, 1967", is omitted as obsolete.

27 Defined terms: "Child" § 5-301

28 "CINA case" § 1-101

29 "Guardianship" § 5-301

30 "Includes" § 1-101

31 "Including" § 1-101

32 "Juvenile court" § 1-101

33 "Local department" § 1-101

34 "Parent" § 5-301

35 "Person" § 1-101

36 5-326. REVIEW HEARINGS.

37 (A) PERIODIC HEARING.

1 (1) A JUVENILE COURT SHALL HOLD:

2 (I) AN INITIAL GUARDIANSHIP REVIEW HEARING AS SCHEDULED
3 UNDER § 5-324(B)(1)(VI) OF THIS SUBTITLE TO ESTABLISH A PERMANENCY PLAN FOR
4 THE CHILD; AND

5 (II) AT LEAST ONCE EACH YEAR AFTER THE INITIAL
6 GUARDIANSHIP REVIEW HEARING UNTIL THE JUVENILE COURT'S JURISDICTION
7 TERMINATES, A GUARDIANSHIP REVIEW HEARING.

8 (2) AT EACH GUARDIANSHIP REVIEW HEARING, A JUVENILE COURT
9 SHALL DETERMINE WHETHER:

10 (I) THE CHILD'S CURRENT CIRCUMSTANCES AND PLACEMENT ARE
11 IN THE CHILD'S BEST INTERESTS;

12 (II) THE PERMANENCY PLAN THAT IS IN EFFECT IS IN THE CHILD'S
13 BEST INTERESTS; AND

14 (III) REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE
15 PERMANENCY PLAN THAT IS IN EFFECT.

16 (3) (I) A JUVENILE COURT SHALL GIVE AT LEAST 30 DAYS' NOTICE
17 BEFORE EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD TO:

18 1. THE LOCAL DEPARTMENT;

19 2. THE CHILD'S ATTORNEY; AND

20 3. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
21 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY.

22 (II) A PARENT IS ENTITLED TO BE HEARD AND TO PARTICIPATE AT A GUARDIANSHIP
23 REVIEW HEARING.

24 (III) A PARENT IS NOT A PARTY SOLELY ON THE BASIS OF THE RIGHT
25 TO NOTICE OR OPPORTUNITY TO BE HEARD OR PARTICIPATE AT A GUARDIANSHIP REVIEW HEARING.

26 (4) (I) A LOCAL DEPARTMENT SHALL GIVE A CHILD'S CAREGIVER AT
27 LEAST 7 DAYS' NOTICE BEFORE A GUARDIANSHIP REVIEW HEARING.

28 (II) A CAREGIVER IS ENTITLED TO BE HEARD AT A GUARDIANSHIP
29 REVIEW HEARING.

30 (III) A CAREGIVER IS NOT A PARTY SOLELY ON THE BASIS OF THE
31 RIGHT TO NOTICE OR OPPORTUNITY TO BE HEARD AT A GUARDIANSHIP REVIEW
32 HEARING.

33 (5) (I) AT LEAST 10 DAYS BEFORE EACH GUARDIANSHIP REVIEW
34 HEARING, A LOCAL DEPARTMENT SHALL:

1 1. INVESTIGATE AS NEEDED TO PREPARE A WRITTEN
2 REPORT THAT SUMMARIZES THE CHILD'S CIRCUMSTANCES AND THE PROGRESS
3 THAT HAS BEEN MADE IN IMPLEMENTING THE CHILD'S PERMANENCY PLAN; AND

4 2. SEND A COPY OF THE REPORT TO:

5 A. THE CHILD'S ATTORNEY; AND

6 B. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
7 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY.

8 (II) NOTICE TO A PARENT UNDER **THIS PARAGRAPH** SHALL BE SENT
9 TO THE PARENT'S LAST ADDRESS KNOWN TO THE JUVENILE COURT.

10 (6) A CHILD'S PERMANENCY PLAN MAY BE, IN ORDER OF PRIORITY:

11 (I) ADOPTION OF THE CHILD;

12 (II) **CUSTODY AND** GUARDIANSHIP OF THE CHILD BY AN INDIVIDUAL;

13 (III) CONTINUATION IN A SPECIFIED PLACEMENT ON A PERMANENT
14 BASIS BECAUSE OF THE CHILD'S SPECIAL CIRCUMSTANCES OR NEEDS; OR

15 (IV) CONTINUATION IN PLACEMENT FOR A SPECIFIED PERIOD
16 BECAUSE OF THE CHILD'S SPECIAL CIRCUMSTANCES OR NEEDS.

17 (7) EVERY REASONABLE EFFORT SHALL BE MADE TO IMPLEMENT A
18 PERMANENCY PLAN WITHIN 1 YEAR.

19 (8) AT EACH GUARDIANSHIP REVIEW HEARING FOR A CHILD, A
20 JUVENILE COURT SHALL:

21 (I) EVALUATE THE CHILD'S SAFETY AND ACT AS NEEDED TO
22 PROTECT THE CHILD;

23 (II) CONSIDER THE WRITTEN REPORT OF A LOCAL OUT-OF-HOME
24 PLACEMENT REVIEW BOARD REQUIRED UNDER **§ 5-545 OF THIS TITLE**;

25 (III) DETERMINE THE EXTENT OF COMPLIANCE WITH THE
26 PERMANENCY PLAN;

27 (IV) MAKE A SPECIFIC FACTUAL FINDING ON WHETHER
28 REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE CHILD'S PERMANENCY
29 PLAN AND DOCUMENT THE FINDING;

30 (V) SUBJECT TO **SUBSECTION (B) OF THIS SECTION**, CHANGE THE
31 CHILD'S PERMANENCY PLAN IF A CHANGE WOULD BE IN THE CHILD'S BEST
32 INTERESTS;

33 (VI) PROJECT A REASONABLE DATE BY WHICH THE PERMANENCY
34 PLAN WILL BE FINALIZED;

1 (VII) ENTER ANY ORDER THAT THE JUVENILE COURT FINDS
2 APPROPRIATE TO IMPLEMENT THE PERMANENCY PLAN; AND

3 (VIII) TAKE ALL OTHER ACTION THAT THE JUVENILE COURT
4 CONSIDERS ~~APPROPRIATE~~ **TO BE** IN THE CHILD'S BEST INTERESTS, INCLUDING ANY ORDER
5 ALLOWED UNDER **§ 5-324(B)(1)(II) OF THIS SUBTITLE**.

6 (9) A JUVENILE COURT MAY APPROVE A PERMANENCY PLAN OTHER
7 THAN ADOPTION OF A CHILD ONLY IF THE JUVENILE COURT FINDS THAT, FOR A
8 COMPELLING REASON, ADOPTION IS NOT IN THE CHILD'S BEST INTERESTS.

9 (10) (I) AT A GUARDIANSHIP REVIEW HEARING HELD 1 YEAR OR MORE
10 AFTER A JUVENILE COURT ENTERS AN ORDER FOR GUARDIANSHIP OF A CHILD, THE
11 JUVENILE COURT MAY DESIGNATE AN INDIVIDUAL GUARDIAN OF THE CHILD IF:

12 1. THE LOCAL DEPARTMENT CERTIFIES THAT THE CHILD
13 HAS LIVED SUCCESSFULLY WITH THE INDIVIDUAL FOR AT LEAST 180 DAYS UNDER
14 THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS AGENT **OR A SHORTER PERIOD ALLOWED BY THE**
JUVENILE COURT ON RECOMMENDATION OF THE LOCAL DEPARTMENT;

15 2. THE LOCAL DEPARTMENT FILES A REPORT BY A CHILD
16 PLACEMENT AGENCY, COMPLETED IN ACCORDANCE WITH STATE DEPARTMENT
17 REGULATIONS, AS TO THE SUITABILITY OF THE INDIVIDUAL TO BE THE CHILD'S
18 GUARDIAN; AND

19 3. THE JUVENILE COURT MAKES A SPECIFIC FINDING THAT:

20 A. FOR A COMPELLING REASON, ADOPTION IS NOT IN THE
21 CHILD'S BEST INTERESTS; AND

22 B. **CUSTODY AND** GUARDIANSHIP BY THE INDIVIDUAL IS IN THE CHILD'S
23 BEST INTERESTS AND IS THE LEAST RESTRICTIVE ALTERNATIVE AVAILABLE.

24 (II) DESIGNATION OF A GUARDIAN UNDER **THIS PARAGRAPH**
25 TERMINATES THE LOCAL DEPARTMENT'S LEGAL OBLIGATIONS AND
26 RESPONSIBILITIES TO THE CHILD.

27 (III) AFTER DESIGNATION OF A GUARDIAN UNDER **THIS**
28 **PARAGRAPH**, A JUVENILE COURT MAY ORDER ANY FURTHER REVIEW THAT THE
29 JUVENILE COURT FINDS TO BE IN THE CHILD'S BEST INTERESTS.

30 (B) EMERGENCY REVIEW HEARING.

31 (1) WHENEVER A JUVENILE COURT ORDERS A SPECIFIC PLACEMENT
32 FOR A CHILD, A LOCAL DEPARTMENT MAY REMOVE THE CHILD FROM THE
33 PLACEMENT BEFORE A HEARING ONLY IF:

34 (I) REMOVAL IS NEEDED TO PROTECT THE CHILD FROM SERIOUS
35 IMMEDIATE DANGER;

1 (II) CONTINUATION OF THE PLACEMENT IS CONTRARY TO THE
2 CHILD'S BEST INTERESTS; OR

3 (III) THE CHILD'S CAREGIVER ASKS FOR THE CHILD'S IMMEDIATE
4 REMOVAL.

5 (2) (I) ON THE NEXT DAY ON WHICH THE CIRCUIT COURT SITS AFTER
6 A LOCAL DEPARTMENT CHANGES A PLACEMENT UNDER **THIS SUBSECTION**, THE
7 JUVENILE COURT SHALL HOLD AN EMERGENCY REVIEW HEARING ON THE CHANGE.

8 (II) A JUVENILE COURT SHALL GIVE REASONABLE NOTICE OF AN
9 EMERGENCY REVIEW HEARING TO:

10 1. THE CHILD'S ATTORNEY;

11 2. EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
12 WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S ATTORNEY; AND

13 3. EACH OTHER PARTY'S ATTORNEY.

14 (III) AT AN EMERGENCY REVIEW HEARING, THE STANDARD OF
15 REVIEW AS TO A CHANGE SHALL BE THE STANDARD FOR CONTINUED SHELTER CARE
16 IN A HEARING UNDER **§ 3-815 OF THE COURTS ARTICLE**.

17 (IV) UNLESS ALL OF THE PARTIES AGREE TO A JUVENILE COURT'S
18 ORDER ENTERED AT AN EMERGENCY REVIEW HEARING, THE JUVENILE COURT
19 SHALL HOLD A FULL REVIEW HEARING ON THE CHANGE WITHIN 30 DAYS AFTER THE
20 DATE OF REMOVAL OR, IF AGREED TO BY THE PARTIES, A LATER DATE.

21 COMMITTEE NOTE: Subsection (a)(1), (2), and (8)(viii) of this section is derived
22 from former FL § 5-319(a), (b), and (d) through (f) and revised to require
23 review hearings at set intervals, rather than only on notice of a disrupted
24 placement.

25 Subsection (a)(3)(i) of this section is substituted for former FL § 5-319(c),
26 which imposed the notice requirement on a petitioner.

27 Subsection (a)(3)(ii) and (4) of this section is new and added to define the
28 rights and status of parents and caretakers.

29 Subsection (a)(5) of this section is new and added to ensure that a court
30 and the parties have current information about a child in a timely manner
31 for consideration at a hearing.

32 Subsection (a)(6), (7), and (9) of this section is new and added to provide
33 alternative plans in addition to adoption or long-term care but in a timely
34 manner and only when adoption is not in a child's best interests.

35 Accordingly, in subsection (a)(2)(iii) of this section, the reference to
36 "reasonable efforts ... to finalize the permanency plan" is substituted for
37 the former reference to "progress ... toward the child's adoption".

Subsection (a)(10) of this section is substituted for former FL § 5-319(g) and (h), to set a minimum period before guardianship is awarded to an individual, to spell out the effect of an individual guardianship, and to provide a court with discretion as to continuing review.

Subsection (b) of this section is new and added to provide for an emergency hearing in the event that a local department believes a court-ordered placement is no longer suitable. Subsection (b) is patterned after current **CJ § 3-820**.

In subsection (a)(8)(viii) of this section, the reference to "any order allowed under § 5-324(b)(1)(ii) ..." is added to incorporate the types of action that a court could take in granting a guardianship.

Defined terms: "Caregiver" § 5-301

"Child" § 5-301

"Child placement agency" § 5-101

"Guardianship" § 5-301

"Includes" § 1-101

"Including" § 1-101

"Juvenile court" § 1-101

"Local department" § 1-101

"Parent" § 5-301

"Party" § 5-301

"State Department" § 5-101

5-327. FAILED CONDITIONAL PLACEMENT DURING GUARDIANSHIP.

IF, AFTER A JUVENILE COURT GRANTS GUARDIANSHIP, A PARTY BECOMES AWARE THAT A CONDITION OF CONSENT TO THE GUARDIANSHIP MAY NOT BE FULFILLED:

(1) THE PARTY PROMPTLY SHALL:

(I) FILE NOTICE WITH THE JUVENILE COURT; AND

(II) PROVIDE NOTICE TO ALL OF THE OTHER PARTIES;

(2) THE JUVENILE COURT SHALL SCHEDULE A HEARING TO OCCUR WITHIN 30 DAYS AFTER THE FILING OF THE NOTICE; AND

(3) IF THE PARTY WHOSE CONDITION CANNOT BE FULFILLED ~~DECLINES~~ **FAILS** TO ENTER INTO A NEW CONSENT, THE JUVENILE COURT SHALL:

(I) SET ASIDE THE GUARDIANSHIP ORDER;

(II) SET THE CASE IN FOR A PROMPT TRIAL ON THE MERITS OF THE GUARDIANSHIP PETITION; AND

1 (III) REOPEN THE CINA CASE FOR REVIEW AS REQUIRED UNDER
2 **TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE.**

3 COMMITTEE NOTE: This section is new and added to provide for the effect
4 when a condition of the newly authorized conditional consent cannot be
5 fulfilled.

6 Defined terms: "CINA case" § 1-101

7 "Guardianship" § 5-301

8 "Juvenile court" § 1-101

9 "Party" § 5-301

10 5-328. TERMINATION OF GUARDIANSHIP.

11 (A) LOCAL DEPARTMENT GUARDIANSHIP.

12 IF A LOCAL DEPARTMENT IS A CHILD'S GUARDIAN UNDER **THIS SUBTITLE**, A
13 JUVENILE COURT:

14 (1) RETAINS JURISDICTION UNTIL:

15 (I) THE CHILD ATTAINS 18 YEARS OF AGE; OR

16 (II) THE JUVENILE COURT FINDS THE CHILD TO BE ELIGIBLE FOR
17 EMANCIPATION; AND

18 (2) MAY CONTINUE JURISDICTION UNTIL THE CHILD ATTAINS 21 YEARS
19 OF AGE.

20 (B) INDIVIDUAL GUARDIAN.

21 IF A JUVENILE COURT DESIGNATES AN INDIVIDUAL AS A CHILD'S GUARDIAN,
22 THE JUVENILE COURT:

23 (1) MAY RETAIN JURISDICTION UNTIL THE CHILD ATTAINS 18 YEARS OF
24 AGE; OR

25 (2) ON FINDING FURTHER REVIEW UNNECESSARY TO MAINTAIN THE
26 CHILD'S HEALTH AND WELFARE, MAY TERMINATE THE CASE BEFORE THE CHILD
27 ATTAINS 18 YEARS OF AGE.

28 (C) ADOPTION ORDER.

29 ~~AN FINAL~~ ORDER FOR ADOPTION OF A CHILD TERMINATES THE CHILD'S
30 GUARDIANSHIP CASE.

31 (D) CLOSING CASE.

32 ON TERMINATION OF A GUARDIANSHIP CASE, A JUVENILE COURT SHALL CLOSE
33 THE CASE.

1 COMMITTEE NOTE: This section is substituted for former FL § 5-319(i), which
2 referred only to jurisdiction in equity courts.

3 Defined terms: "Child" § 5-301

4 "Guardianship" § 5-301

5 "Juvenile court" § 1-101

6 "Local department" § 1-101

7 5-329. RESERVED.

8 5-330. RESERVED.

9 PART III. ADOPTION WITHOUT PRIOR TERMINATION OF PARENTAL RIGHTS.

10 5-331. PETITION.

11 (A) AUTHORIZED.

12 BEFORE TERMINATION OF PARENTAL RIGHTS AS TO A CHILD, A PETITION FOR
13 ADOPTION OF THE CHILD MAY BE FILED ONLY AS PROVIDED IN **THIS PART III OF**
14 **THIS SUBTITLE.**

15 (B) PETITIONER.

16 (1) **WITH THE CONSENT OF THE LOCAL DEPARTMENT WITH CUSTODY OF A CHILD, ANY**
ADULT MAY PETITION A JUVENILE COURT ~~FOR AN ADOPTION~~
17 UNDER **THIS PART III OF THIS SUBTITLE TO ADOPT THE CHILD.**

18 (2) IF A PETITIONER UNDER **THIS SECTION** IS MARRIED, THE
19 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

20 (I) IS SEPARATED FROM THE PETITIONER UNDER A
21 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
22 DIVORCE; OR

23 (II) IS NOT COMPETENT TO JOIN IN THE PETITION.

24 (C) CONTENTS.

25 (1) A PETITIONER UNDER **THIS SECTION** SHALL ATTACH TO A PETITION:

26 (I) FOR A PARENT WHO IS DEAD, A DEATH CERTIFICATE;

27 (II) FOR EACH OTHER PARENT:

28 1. THE CONSENT REQUIRED UNDER **THIS PART III OF THIS**
29 **SUBTITLE;**

30 2. AN AFFIDAVIT, BY THE LOCAL DEPARTMENT WITH
31 CUSTODY OF THE CHILD, STATING THAT:

1 A. DESPITE REASONABLE EFFORTS AS PROVIDED IN **§ 5-316**
2 **OF THIS SUBTITLE**, THE PARENT CANNOT BE LOCATED; AND

3 B. TO THE BEST KNOWLEDGE OF THE LOCAL DEPARTMENT,
4 THE PARENT HAS NOT CONTACTED THE LOCAL DEPARTMENT OR CHILD FOR AT
5 LEAST 180 DAYS IMMEDIATELY BEFORE THE FILING OF THE PETITION; OR

6 3. IF APPLICABLE:

7 A. PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF
8 PARENTAL RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL
9 BODY OF A STATE OR OTHER JURISDICTION; AND

10 B. CERTIFICATION THAT THE GUARDIANSHIP OR
11 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;

12 (III) EACH OTHER CONSENT REQUIRED UNDER **§ 5-337 5-338 OF THIS**
13 **SUBTITLE**;

14 (IV) A COPY OF AN AGREEMENT, IF ANY, FOR POSTADOPTION
15 CONTACT ~~REDACTED TO REMOVE ALL IDENTIFYING INFORMATION~~; AND

16 (V) A NOTICE OF FILING THAT:

17 1. STATES THE DATE ON WHICH THE PETITION WAS FILED;

18 2. IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED
19 WITH THE PETITION;

20 3. STATES THE OBLIGATION OF A PARENT TO GIVE THE
21 JUVENILE COURT AND LOCAL DEPARTMENT NOTICE OF EACH CHANGE IN THE
22 PARENT'S ADDRESS;

23 4. IF APPLICABLE, STATES THAT A POSTADOPTION
24 AGREEMENT WAS FILED WITH THE PETITION; AND

25 5. INCLUDES NO IDENTIFYING INFORMATION THAT WOULD
26 BE IN VIOLATION OF AN AGREEMENT OR CONSENT.

27 (2) IN ADDITION TO A ~~REDACTED~~ COPY OF AN AGREEMENT FOR
28 POSTADOPTION CONTACT, A PETITIONER SHALL FILE THE ORIGINAL AGREEMENT
29 UNDER SEAL.

30 (D) AMENDED PETITION.

31 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF AN
32 ~~FINAL~~ ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

33 (E) ASSISTANCE FROM LOCAL DEPARTMENT.

1 THE LOCAL DEPARTMENT WITH CUSTODY OF THE CHILD SHALL ASSIST A
 2 PETITIONER IN COMPLYING WITH THE REQUIREMENTS OF **THIS SECTION**.

3 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
 4 5-317(a) and revised to reflect the new mandate for a prior guardianship
 5 petition absent special circumstances.

6 Subsection (b)(1) of this section is derived from former FL § 5-309(a).

7 Subsections (b)(2) and (d) of this section are derived from former FL §
 8 5-315(a)(2) and (3) and (b).

9 Subsection (c) of this section is new and added to specify minimum
 10 requirements for a petition under this section.

11 Subsection (e) of this section is new and added to ensure that a petition
 12 meets the requirement of this section.

13 In subsection (b) of this section, the former word "decree" is omitted.
 14 Similarly, in subsection (d) of this section, the reference to an "order" is
 15 substituted for the former word "decree".

16 Former FL § 5-315(a)(1), which provided an exception for the petitioner
 17 whose spouse is a parent, is omitted from **this Part III** of this subtitle.

18 As to "adult", see **Art. 1, § 24 of the Code**.

19 Defined terms: "Child" § 5-301

20 "Identifying information" § 5-301

21 "Includes" § 1-101

22 "Including" § 1-101

23 "Juvenile court" § 1-101

24 "Local department" § 1-101

25 "Parent" § 5-301

26 "Person" § 1-101

27 "State" § 1-101

5-332. PARENTAL ADDRESSES.

A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER **THIS PART III OF THIS SUBTITLE**.

COMMITTEE NOTE: This section is new and added to clarify the duty of a clerk of court to keep the listing required under **CJ § 3-822** beyond the CINA proceeding.

Defined terms: "Juvenile court" § 1-101

"Parent" § 5-301

28 ~~5-332-3~~. NOTICE OF FILING.

29 (A) REQUIREMENT.

30 WITHIN 5 DAYS AFTER A PETITION FOR ADOPTION OF A CHILD IS FILED UNDER
 31 **THIS PART III OF THIS SUBTITLE** WITH A JUVENILE COURT, THE CLERK SHALL SEND
 32 A COPY OF THE PETITION, WITH THE NOTICE OF FILING THAT WAS ATTACHED TO
 33 THE PETITION, TO:

34 (1) THE LOCAL DEPARTMENT WITH CUSTODY OF THE CHILD;

35 (2) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE
 36 RIGHT TO NOTICE;

1 (3) EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA
2 CASE; AND

3 (4) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

4 (B) METHOD.

5 NOTICE UNDER **THIS SECTION** SHALL BE BY ~~FIRST-CLASS~~ **FIRST CLASS** MAIL.

6 (C) PARENTAL ADDRESS.

7 NOTICE **TO A PARENT** UNDER **THIS SECTION** SHALL BE SENT TO A PARENT'S LAST ADDRESS
8 KNOWN TO THE JUVENILE COURT.

9 COMMITTEE NOTE: This section is new and added to state an express
10 requirement for notice to the individual who is the subject of the
11 guardianship petition and the individual's counsel, as well as the
12 individual's parents and their counsel.

13 Defined terms: "Child" § 5-301

14 "CINA case" § 1-101

15 "Juvenile court" § 1-101

16 "Local department" § 1-101

17 "Parent" § 5-301

18 "Person" § 1-101

19 5-333**4**. ORDER TO SHOW CAUSE.

20 (A) REQUIREMENT.

PROMPTLY AFTER A PETITION FOR ADOPTION IS FILED UNDER **THIS PART III OF THIS SUBTITLE**, A
JUVENILE COURT SHALL ISSUE A SHOW CAUSE ORDER THAT REQUIRES THE PARTY TO WHOM ISSUED TO
RESPOND AS REQUIRED UNDER THE MARYLAND RULES.

(B) SERVICE.

21 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO ADOPTION OF A CHILD UNDER
22 **THIS PART III OF THIS SUBTITLE** **SECTION**, A PETITIONER SHALL SERVE THE ORDER ON:

23 (1) EACH OF THE CHILD'S LIVING PARENTS;

(2) **EACH LIVING PARENT'S LAST ATTORNEY OF RECORD IN THE CINA CASE; AND**

24 ~~(2)~~ (3) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

25 ~~(B)~~ (C) METHOD.

26 SERVICE UNDER **THIS SECTION** SHALL BE:

27 (1) ON A PARENT, BY:

28 (I) ~~FIRST-CLASS~~ **FIRST CLASS** MAIL; AND

29 (II) 1. PERSONAL SERVICE; OR

30 2. CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN
31 RECEIPT REQUESTED; AND

32 (2) ON AN ATTORNEY, BY PERSONAL SERVICE OR CERTIFIED MAIL.

1 ~~(C)~~ (D) PARENTAL ADDRESSES.

2 SERVICE ON A PARENT UNDER **THIS SECTION** SHALL BE ATTEMPTED AS
3 PROVIDED IN **§ 5-316~~(C)~~(D) AND ~~(D)~~(E) OF THIS SUBTITLE**.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to state expressly the duty of a court to issue a show cause order.

5 Subsection (b)(1) and (3) of this section is derived from former FL §
6 5-322(a)(3) and, as it related to adoption, (1)(i) and (ii)2, and the
7 introductory language of (b) and revised to reflect that a petitioner's duty
begins "after on issuance" of a show cause order by a court.

8 Subsections (b)(2) and (c)(1)(i) of this section is are new and added to provide an
9 additional methods for notification of a parent.

10 Subsection ~~(b)~~(c)(1)(ii) and ~~(2)~~(3) of this section is derived from the reference to
11 "certified mail or private process" in the introductory language of former
12 FL § 5-322(b), and the inconsistent reference to "both certified mail and
13 private process", in former FL § 5-322(c)(2) is omitted.

14 Subsection ~~(c)~~(d) of this section is substituted for former FL § 5-322(b)(1)
15 through (e), as it related to adoption, for brevity.

16 Defined terms: "Child" § 5-301

17 "CINA case" § 1-101

18 "Parent" § 5-301

19 5-334**5**. HEARING ON ADOPTION PETITION.

20 (A) REQUIREMENT.

21 A JUVENILE COURT SHALL HOLD A HEARING BEFORE ENTERING AN ~~FINAL~~
22 ORDER FOR ADOPTION UNDER **THIS PART III OF THIS SUBTITLE**.

23 (B) NOTICE.

24 **BEFORE A HEARING UNDER THIS SECTION**, A JUVENILE COURT SHALL GIVE NOTICE TO ALL OF THE
PARTIES ~~BEFORE A~~
25 ~~HEARING UNDER THIS SECTION~~.

26 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
27 5-324.1.

28 Subsection (b) of this section is new and added for completeness.

29 In subsection (a) of this section, the word "order" is substituted for the
30 former, more archaic "decree".

31 Defined terms: "Juvenile court" § 1-101

32 ~~"Parties"~~ "Party" § 5-301

33 5-335**6**. TIME LIMITS.

34 (A) MAXIMUM LIMIT.

1 SUBJECT TO **SUBSECTION (B) OF THIS SECTION**. A JUVENILE COURT SHALL
 2 RULE ON AN ADOPTION PETITION UNDER **THIS PART III OF THIS SUBTITLE**
 3 PROMPTLY BUT NO LATER THAN 180 DAYS AFTER THE PETITION IS FILED.

4 (B) MINIMUM LIMIT.

5 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR ADOPTION OF A CHILD
 6 UNDER **THIS PART III OF THIS SUBTITLE** BEFORE THE LATER OF:

7 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD; ~~OR~~

8 (2) EXPIRATION OF THE TIME FOR ~~OBJECTION OR~~ REVOCATION OF
 9 CONSENT, **AND NOT WAIVED, UNDER § 5-321(C) OF THIS SUBTITLE; OR**

(3) EXPIRATION OF THE TIME TO RESPOND TO SHOW CAUSE ORDERS ISSUED UNDER THIS
 SUBTITLE.

10 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
 11 5-317(d), as it related to adoptions, and revised to cover consensual as well
 12 as nonconsensual adoptions. Accordingly, subsection (b) of this section is
 13 added to prevent entry of an order until after the revocation **or show cause** period expires.

14 In subsection (a) of this section, the word "promptly" is added for emphasis.

15 Defined term: "Juvenile court" § 1-101

16 5-3367. CONSIDERATIONS.

17 (A) GENERAL.

18 IN RULING ON A PETITION FOR A CHILD'S ADOPTION UNDER **THIS PART III OF**
 19 **THIS SUBTITLE**, A JUVENILE COURT SHALL CONSIDER:

20 (1) ANY ASSURANCE BY A LOCAL DEPARTMENT TO FUND NEEDED
 21 SUPPORT FOR THE CHILD;

22 (2) ALL FACTORS NECESSARY TO DETERMINE THE CHILD'S BEST
 23 INTERESTS; AND

24 (3) A REPORT BY A CHILD PLACEMENT AGENCY, COMPLETED IN
 25 ACCORDANCE WITH STATE DEPARTMENT REGULATIONS, AS TO:

26 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
 27 PARENT; AND

28 (II) THE CHILD'S ~~SUCCESS LIVING~~ **SUCCESSFUL PLACEMENT FOR ADOPTION** WITH THE
 PETITIONER UNDER
 29 THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST 180
 30 DAYS OR A SHORTER PERIOD ALLOWED BY THE JUVENILE COURT ON
 31 RECOMMENDATION OF THE LOCAL DEPARTMENT.

[NOTE: "Placement for adoption" is not a defined term in this bill. Does the concept of "preadoptive parent, as defined in § 3-823(i)(1) of the Courts Article" need to be incorporated into item (ii)? While the Courts article provision may not apply, the cross-reference was used merely to pick up the substance of the definition – that is, approved by the child placement agency etc.

Should lines 12-14 on page 53 be conformed?]

32 (B) MARITAL STATUS.

1 IN RULING ON AN ~~ADOPTION~~ PETITION FOR ADOPTION UNDER **THIS PART III OF THIS**
2 **SUBTITLE**, A JUVENILE COURT MAY NOT DENY ~~A THE~~ PETITION FOR ADOPTION SOLELY
3 BECAUSE THE PETITIONER IS SINGLE OR UNMARRIED.

4 (C) CONSTRUCTION AS VOLUNTARY.

5 IF A PARENT CONSENTS TO ADOPTION IN ACCORDANCE WITH ~~§ 5-337~~ **5-338** **OF THIS**
6 **SUBTITLE**, LOSS OF PARENTAL RIGHTS SHALL BE CONSIDERED VOLUNTARY.

7 COMMITTEE NOTE: Subsections (a)(1) and (b) of this section are derived from
8 former FL §§ 5-309 and 5-316(1).

9 Subsection (a)(2) of this section is new and added to state expressly that a
10 court may consider relevant factors. Accordingly, former FL § 5-316(2),
11 which provided only for consideration of religious background, is omitted
12 as unnecessary.

13 Subsection (a)(3) of this section is new and added to reflect the
14 requirements of the referenced regulations of the State Department, in
15 **COMAR 07.02.12.10**.

16 Subsection (c) of this section is new and added to delineate voluntary TPR
17 under this subtitle.

18 In subsection (a)(1) of this section, the reference to a "local department" is
19 substituted for the former reference to "the Social Services
20 Administration", to conform to **current FL Title 5, Subtitle 4**.

21 Also in subsection (a)(1) of this section, the former word "maintenance" is
22 omitted as included in the defined term "support".

23 In subsection (b) of this section, the reference to being "unmarried" is
24 substituted for the former reference to "not hav[ing] a spouse".

25 Defined terms: "Child" § 5-301

26 "Child placement agency" § 5-101

27 "Juvenile court" § 1-101

28 "Local department" § 1-101

29 "Parent" § 5-301

30 "State Department" § 5-101

31 "Support" § 1-101

32 ~~5-337~~ **5-338**. AUTHORITY TO GRANT ADOPTION.

33 (A) CONSENT OR ACQUIESCENCE.

34 A JUVENILE COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER
35 **THIS PART III OF THIS SUBTITLE** ONLY IF:

1 (1) (I) AT LEAST ONE OF THE CHILD'S PARENTS:
2 AN ATTORNEY; ~~AND~~
3 1. IS REPRESENTED BY
4 2. HAS HAD AN OPPORTUNITY TO RECEIVE ADOPTION COUNSELING AND
5 GUIDANCE SERVICES; AND
6 3. CONSENTS TO THE ADOPTION:
7 ~~± A. IN WRITING; OR~~
8 ~~± B. KNOWINGLY AND VOLUNTARILY, ON THE RECORD~~
9 BEFORE THE JUVENILE COURT; ~~OR~~
10 3. ~~BY FAILURE TO FILE A TIMELY NOTICE OF OBJECTION~~
11 ~~AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS~~
12 ~~PART III OF THIS SUBTITLE; AND~~
13 (II) A PARENT WHO DOES NOT CONSENT:
14 1. IS DEAD; OR
15 2. A. DESPITE REASONABLE EFFORTS AS PROVIDED IN §
16 5-316 OF THIS SUBTITLE, CANNOT BE LOCATED; ~~AND~~
17 B. HAS NOT CONTACTED THE LOCAL DEPARTMENT WITH
18 CUSTODY OF THE CHILD OR THE CHILD FOR AT LEAST 180 DAYS IMMEDIATELY
19 BEFORE THE FILING OF THE PETITION; ~~AND~~
20 C. FAILS TO RESPOND TO A SHOW CAUSE ORDER SERVED UNDER § 5-
21 334 OF THIS SUBTITLE;
22 (2) THE DIRECTOR OF THE LOCAL DEPARTMENT WITH CUSTODY OF THE
23 CHILD CONSENTS; AND
24 (3) THE CHILD:
25 (I) IS REPRESENTED BY AN ATTORNEY; AND
26 (II) 1. IF AT LEAST 10 YEARS ~~OF AGE~~ OLD, CONSENTS; OR
27 2. IF UNDER THE AGE OF 10 YEARS ~~OF AGE~~, DOES NOT OBJECT.
28 (B) WITHHOLDING CONSENT.
29 A LOCAL DEPARTMENT MAY NOT WITHHOLD CONSENT FOR THE SOLE REASON
30 THAT THE RACE, RELIGION, COLOR OR NATIONAL ORIGIN OF A PROSPECTIVE
31 ADOPTIVE PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.
32 COMMITTEE NOTE: Subsection (a)(1), (2), and (3)(ii)1 of this section is derived
33 from former FL § 5-311(a) and revised to refer to adoption counseling and guidance services and to allow consent by 1 parent
in instances when the other parent is dead or not in contact.
Subsection (a)(3)(i) of this section is new and added to reflect the expanded
requirement for representation by counsel.
Subsection (a)(3)(ii)2 of this section is new and added to allow for objection
by a child who is not old enough for consent.
Subsection (b) of this section is derived from former FL § 5-311(b)(2) and

1 revised to include "color" and "national origin" but omit "where to do so"
 2 would be contrary to the best interests of the child", to conform to the
 3 federal law.

4 In subsection (b) of this section, the defined term "local department" is
 5 substituted for the former reference to "the executive head of the child
 6 placement agency" for brevity.

7 Defined terms: "Adoptive parent" § 5-101

8 "Child" § 5-301

9 "Juvenile court" § 1-101

10 "Local department" § 1-101

11 "Parent" § 5-301

12 ~~5-338~~ 5-339. CONSENT.

13 (A) CONTENTS AND ATTACHMENTS.

14 (1) CONSENT OF A PARENT TO AN ADOPTION UNDER **THIS PART III OF**
 15 **THIS SUBTITLE** MAY INCLUDE:

16 (I) A PROVISION BARRING A PETITIONER FROM LEARNING
 17 IDENTIFYING INFORMATION ABOUT THE PARENT; AND

18 (II) A WAIVER OF THE RIGHT TO NOTICE OF FUTURE PROCEEDINGS
 19 UNDER **THIS PART III OF THIS SUBTITLE**.

20 (2) CONSENT TO ADOPTION ENTERED INTO ON THE RECORD SHALL
 21 INCLUDE A WAIVER OF THE REVOCATION PERIOD.

22 (3) CONSENT OF A PARTY TO AN ADOPTION UNDER **THIS PART III OF**
 23 **THIS SUBTITLE** IS NOT VALID UNLESS:

24 (I) THE CONSENT NAMES THE CHILD;

25 (II) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY
 26 THE PROSPECTIVE ADOPTIVE PARENT;

27 (III) THE PARTY HAS RECEIVED PRIOR WRITTEN OR ON THE RECORD
 28 NOTICE OF:

29 1. THE REVOCATION PROVISIONS IN **SUBSECTION (B)(1) OF**
 30 **THIS SECTION**;

31 2. THE SEARCH RIGHTS OF ADOPTEDS AND PARENTS UNDER
 32 **§ 5-359 OF THIS SUBTITLE AND SUBTITLES 4B AND 4D OF THIS TITLE**; AND

[NOTE: If the veto of HB 232 (2004) is overridden, subitem 2 should read "the search rights of adoptees, parents, and siblings ...".]

33 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER
 34 **§ 5-359** ~~4D~~ OF THIS **SUBTITLE**; AND

1 (IV) THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF
2 COUNSEL APPOINTED UNDER **§ 5-307(A) OF THIS SUBTITLE**, STATING THAT A PARENT
3 WHO IS A MINOR OR HAS A DISABILITY CONSENTS KNOWINGLY AND VOLUNTARILY.

4 (B) REVOCATION BY PARENT.

5 (1) SUBJECT TO **PARAGRAPH (2) OF THIS SUBSECTION**, A PARENT MAY
6 REVOKE CONSENT TO ADOPTION UNDER **THIS PART III OF THIS SUBTITLE** AT ANY
7 TIME WITHIN THE LATER OF:

8 (I) 30 DAYS AFTER THE PARENT SIGNS THE CONSENT; OR

9 (II) 30 DAYS AFTER THE ADOPTION PETITION IS FILED.

10 (2) CONSENT TO ADOPTION UNDER **SUBSECTION (A)(2) OF THIS SECTION**
11 IS IRREVOCABLE.

12 (C) REVOCATION BY LOCAL DEPARTMENT.

13 A LOCAL DEPARTMENT MAY REVOKE CONSENT TO AN ADOPTION UNDER **THIS**
14 **PART III OF THIS SUBTITLE** AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN
15 ~~FINAL~~ ORDER OF ADOPTION UNDER **THIS PART III OF THIS SUBTITLE**.

16 (D) REVOCATION OR OBJECTION BY CHILD.

17 A CHILD MAY REVOKE CONSENT OR OBJECT TO AN ADOPTION UNDER **THIS**
18 **PART III OF THIS SUBTITLE** AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN
19 ~~FINAL~~ ORDER OF ADOPTION UNDER **THIS PART III OF THIS SUBTITLE**.

20 COMMITTEE NOTE: Subsection (a)(1)(i) and (3)(i) and (ii) of this section is new
21 and added for completeness.

22 Subsection (a)(1)(ii) of this section is derived from former FL § 5-322(a)(2),
23 as it related to adoptions.

24 Subsections (a)(2) and (b)(2) of this section are new and added to require a
25 waiver if consent is given on-the-record.

26 Subsection (a)(3)(iii) ~~and (iv)~~ of this section is derived from former FL § 5-314(~~b~~),
27 as it related to adoption, and the substance of former FL § 5-301(h) and
28 revised to apply to disabled, as well as minor, parents.

29 Subsection (b)(~~1~~) of this section is derived from former FL § 5-311(c), as it
30 related to parents, and revised to provide an alternative deadline based on
31 the filing date of the petition.

32 Subsection (c) of this section is substituted for former FL § 5-311(c), as it
33 related to a local department, to expand the revocation period.

34 Subsection (d) of this section is derived from former FL § 5-311(c)(2) and
35 revised to cover acquiescence by children not old enough for consent.

1 Former FL § 5-311(c)(3), which otherwise barred revocation, is omitted as
2 surplusage.

3 As to "minor", *see* **Art. 1, § 24 of the Code.**

4 Defined terms: "Adoptive parent" § 5-101

5 "Child" § 5-301

6 "Disability" § 5-101

7 "Identifying information" § 5-301

8 "Includes" § 1-101

9 "Including" § 1-101

10 "Juvenile court" § 1-101

11 "Local department" § 1-101

12 "Parent" § 5-301

13 "Party" § 5-301

14 ~~5-339~~ **5-340. DISMISSAL.**

15 IF A PETITION FOR ADOPTION UNDER **THIS PART III OF THIS SUBTITLE** IS
16 CONTESTED, A JUVENILE COURT SHALL DISMISS THE PETITION.

17 COMMITTEE NOTE: This section is new and added to state expressly a
18 requirement for dismissal of a contested proceeding under this Part III.

19 Defined term: "Juvenile court" § 1-101

20 ~~5-340~~ **5-341. FINAL ORDER FOR ADOPTION.**

21 (A) EFFECT ON CHILD-PARENT RELATIONSHIP.

22 (1) **THIS SUBSECTION** DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
23 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

24 (2) EXCEPT AS PROVIDED IN **§ 2-123 OF THE REAL PROPERTY ARTICLE,**
25 AFTER A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION UNDER **THIS PART III**
26 **OF THIS SUBTITLE:**

27 (I) THE ADOPTEE:

28 1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL
29 INTENTS AND PURPOSES; AND

30 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
31 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
32 ADOPTIVE PARENT;

33 (II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

34 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
35 TO THE ADOPTEE; AND

1 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
2 ADOPTEE; AND

3 (III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
4 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

5 (B) EFFECT ON PENDING CASES.

6 AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS PART III OF THIS SUBTITLE**
7 TERMINATES ALL PENDING CINA CASES AS TO THE ADOPTEE.

8 (C) NOTICE OF ORDER.

9 (1) **WHEN A JUVENILE COURT ENTERS AN ORDER FOR A CHILD'S ADOPTION UNDER THIS**
PART III OF THIS SUBTITLE, THE JUVENILE COURT SHALL SEND NOTICE WHEN THE JUVENILE
10 ~~COURT ENTERS A FINAL ORDER FOR A CHILD'S ADOPTION UNDER THIS PART III OF~~
11 ~~THIS SUBTITLE TO:~~

12 (I) EACH JUVENILE COURT THAT HAS A PENDING CINA CASE AS TO
13 THE ADOPTEE;

14 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
15 NOT WAIVED THE RIGHT TO NOTICE AND THAT PARENT'S LAST ATTORNEY OF
16 RECORD IN THE CINA CASE; AND

17 (III) THE CHILD'S LAST ATTORNEY OF RECORD IN THE CINA CASE.

18 (2) SERVICE ON A PARENT UNDER **THIS SUBSECTION** SHALL BE AT THE **PARENT'S LAST**
19 ~~ADDRESS LAST~~ KNOWN TO THE JUVENILE COURT.

20 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
21 5-308(a) and (b).

22 Subsections (b) and (c) of this section are new and added to state the effect
23 on pending cases and to provide for notice of the order.

24 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
25 provided in § 2-123 of the Real Property Article", is substituted for the
26 former exception "this section" - i.e., former FL § 5-308 - to reflect the
27 recodification of part of former § 5-308(d). The balance is covered by **new**
28 **subsection (a)(2)(iii).**

29 In the introductory language of subsection (a)(2) of this section, the word
30 "order" is substituted for the former, more archaic "decree".

31 In subsection (a)(2) of this section, the word "adoptive" is substituted for the
32 former references to the "individual adopted", for consistency and brevity.

33 In subsection (a)(2)(i)1 and 2 of this section, the newly defined term
34 "adoptive parent" is substituted for the former references to a "petitioner",
35 for consistency.

1 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
2 the adoptive parent is substituted for the former reference to "a child born
3 to the petitioner in wedlock", to avoid the misleading inference that
4 illegitimacy affects a right, privilege, or obligation of a biological offspring
5 or that the age of majority might affect an adoptee differently from a
6 biological offspring.

7 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
8 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
9 adoptive - relatives are affected in the same manner as a biological
10 relative's. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
11 "parental" relatives is substituted for the former reference to "natural"
12 relatives.

13 Former FL § 5-308(c) and (e), which discounted any difference in orders as
14 to adults and minors or as to interlocutory and final orders, are omitted as
15 unnecessary.

16 Defined terms: "Adoptive parent" § 5-101

17 "Child" § 5-301

18 "CINA case" § 1-101

19 "Juvenile court" § 1-101

20 "Parent" § 5-301

21 ~~5-341~~ **5-342**. PETITION TO INVALIDATE.

22 IF A PETITION TO INVALIDATE AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS**
23 **PART III OF THIS SUBTITLE** ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL
24 DEFECT IS FILED MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A JUVENILE
25 COURT SHALL DISMISS THE PETITION.

26 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
27 revised to require dismissal rather than barring receipt, as more consistent
28 with court practices.

29 The word "order" is substituted for the former, more archaic "decree".

30 Defined term: "Juvenile court" § 1-101

31 ~~5-342~~ **5-343**. RESERVED.

32 ~~5-343~~ **5-344**. RESERVED.

33 PART IV. ADOPTION AFTER TERMINATION OF PARENTAL RIGHTS.

34 ~~5-344~~ **5-345**. PETITION.

35 (A) AUTHORIZED.

1 IF, AFTER TERMINATION OF PARENTAL RIGHTS AS TO A CHILD, THERE IS AN OPEN GUARDIANSHIP CASE,
A PETITION FOR

2 ADOPTION OF THE CHILD MAY BE FILED ONLY AS PROVIDED IN THIS PART IV OF THIS

3 SUBTITLE.

4 (B) PETITIONER.

5 (1) ANY ADULT MAY PETITION A JUVENILE COURT FOR AN ADOPTION
6 UNDER THIS PART IV OF THIS SUBTITLE.

7 (2) IF A PETITIONER UNDER THIS SECTION IS MARRIED, THE
8 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

9 (I) IS SEPARATED FROM THE PETITIONER UNDER A
10 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
11 DIVORCE; OR

12 (II) IS NOT COMPETENT TO JOIN IN THE PETITION.

13 (C) CONTENTS.

14 (1) A PETITIONER UNDER THIS SECTION SHALL ATTACH TO A PETITION:

15 (I) 1. ALL WRITTEN CONSENTS REQUIRED UNDER § 5-351 5-350 OF
16 THIS SUBTITLE; OR

17 2. IF APPLICABLE:

18 A. PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF
19 PARENTAL RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL
20 BODY OF A STATE OR OTHER JURISDICTION; AND

21 B. CERTIFICATION THAT THE GUARDIANSHIP OR
22 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS;

23 (II) A COPY OF AN AGREEMENT, IF ANY, FOR POSTADOPTION
24 CONTACT REDACTED TO REMOVE ALL IDENTIFYING INFORMATION; AND

25 (III) A NOTICE OF FILING THAT:

26 1. STATES THE DATE ON WHICH THE PETITION WAS FILED;

27 2. IDENTIFIES EACH PERSON WHOSE CONSENT WAS FILED
28 WITH THE PETITION;

29 3. IF APPLICABLE, STATES THAT A POSTADOPTION
30 AGREEMENT WAS FILED WITH THE PETITION; AND

31 4. INCLUDES NO IDENTIFYING INFORMATION THAT WOULD
32 BE IN VIOLATION OF AN AGREEMENT OR CONSENT.

1 (2) IN ADDITION TO A ~~REDACTED~~ COPY OF AN AGREEMENT FOR
2 POSTADOPTION CONTACT, A PETITIONER SHALL FILE THE ORIGINAL AGREEMENT
3 UNDER SEAL.

4 (D) AMENDED PETITION.

5 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF AN
6 ~~FINAL~~ ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

7 COMMITTEE NOTE: Subsection (a) of this section is new and added to
8 distinguish adoptions after termination of parental rights **with an open guardianship case** from those
9 under Part III of this subtitle as to adoptions prior to termination.

10 Subsection (b)(1) of this section is derived from former FL § 5-309(a).

11 Subsections (b)(2) and (d) of this section are derived from former FL §
12 5-315(a)(2) and (3) and (b).

13 Subsection (c) of this section is new and added to specify minimum
14 requirements as to a petition under this section.

15 In subsection (b)(2) of this section, the former word "decree" is omitted.
16 Similarly, in subsection (d) of this section, the reference to an "order" is
17 substituted for the former word "decree".

18 Former FL § 5-315(a)(1), which provided an exception for the petitioner
19 whose spouse is a parent, is omitted from **this Part IV** of this subtitle.

20 As to "adult", see **Art. 1, § 24 of the Code**.

21 Defined terms: "Child" § 5-301

22 "Guardianship" § 5-301

23 "Identifying information" § 5-301

24 "Includes" § 1-101

25 "Including" § 1-101

26 "Juvenile court" § 1-101

27 "Person" § 1-101

28 "State" § 1-101

29 ~~5-345. PARENT ADDRESSES:~~

30 ~~A CLERK OF A JUVENILE COURT SHALL KEEP A LISTING OF EACH ADDRESS~~
31 ~~GIVEN TO THE JUVENILE COURT FOR A PARENT UNDER THIS PART IV OF THIS~~
32 ~~SUBTITLE.~~

33 ~~COMMITTEE NOTE: This section is new and added to clarify the duty of a clerk~~
34 ~~of court to keep the listing required under CJ § 3-822 beyond the CINA~~
35 ~~proceeding.~~

1 ~~Defined terms: "Juvenile court" § 1-101~~

2 ~~"Parent" § 5-301~~

3 ~~5-346. NOTICE OF FILING.~~

4 (A) ~~REQUIREMENT.~~

5 WITHIN 5 DAYS AFTER A PETITION FOR ADOPTION OF A CHILD IS FILED UNDER
6 **THIS PART IV OF THIS SUBTITLE** WITH A JUVENILE COURT, THE CLERK SHALL SEND
7 A COPY OF THE PETITION, WITH THE NOTICE OF FILING THAT WAS ATTACHED TO
8 THE PETITION, TO:

9 (1) THE LOCAL DEPARTMENT; AND

10 (2) THE CHILD'S LAST ATTORNEY OF RECORD.

11 (B) METHOD.

12 NOTICE UNDER **THIS SECTION** SHALL BE BY ~~FIRST-CLASS~~ **FIRST CLASS** MAIL.

13 COMMITTEE NOTE: This section is new and added to state an express
14 requirement for notice to counsel, as well as the local department.

15 Defined terms: "Child" § 5-301

16 "Juvenile court" § 1-101

17 "Local department" § 1-101

18 ~~5-347. ORDER TO SHOW CAUSE.~~

19 (A) ~~REQUIREMENT.~~

20 ~~ON ISSUANCE OF A SHOW CAUSE ORDER AS TO ADOPTION OF A CHILD UNDER~~
21 ~~THIS PART IV OF THIS SUBTITLE, A PETITIONER SHALL SERVE THE ORDER ON EACH~~
22 ~~OF THE CHILD'S LIVING PARENTS.~~

23 (B) ~~METHOD.~~

24 ~~SERVICE UNDER THIS SECTION SHALL BE BY:~~

25 (1) ~~FIRST-CLASS MAIL; AND~~

26 (2) ~~(1) PERSONAL SERVICE; OR~~

27 (H) ~~CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT~~
28 ~~REQUESTED.~~

29 (C) ~~PARENTAL ADDRESSES.~~

30 ~~SERVICE ON A PARENT UNDER THIS SECTION SHALL BE ATTEMPTED AT A~~
31 ~~PARENT'S LAST ADDRESS KNOWN TO THE PETITIONER.~~

1 COMMITTEE NOTE: Subsections (a) and (c) of this section are derived from
2 former FL § 5-322(a)(1)(i) and (3), as it related to adoption.

3 Subsection (b) of this section is added to state the manner of service.

4 Defined terms: "Child" § 5-301

5 "Parent" § 5-301

6 ~~5-348~~ 5-347. HEARING ON ADOPTION PETITION.

(A) REQUIREMENT.

7 A JUVENILE COURT SHALL HOLD A HEARING BEFORE ENTERING AN ~~FINAL~~
8 ORDER FOR ADOPTION UNDER **THIS PART IV OF THIS SUBTITLE**.

(B) NOTICE.

BEFORE A HEARING UNDER **THIS SECTION**, A JUVENILE COURT SHALL GIVE NOTICE TO ALL OF THE PARTIES.

9 COMMITTEE NOTE: ~~This~~ Subsection (a) of this section is derived from former FL § 5-324.1.

Subsection (b) of this section is new and added for completeness.

10 ~~The~~ In subsection (a) of this section, the word "order" is substituted for the former, more archaic "decree".

11 Defined term: "Juvenile court" § 1-101

12 ~~5-349~~ 5-348. TIME LIMITS.

13 (A) MAXIMUM LIMIT.

14 SUBJECT TO **SUBSECTION (B) OF THIS SECTION**, A JUVENILE COURT SHALL
15 RULE ON THE ADOPTION PETITION UNDER **THIS PART IV OF THIS SUBTITLE**
16 PROMPTLY BUT NO LATER THAN 180 DAYS AFTER THE PETITION IS FILED.

17 (B) MINIMUM LIMITS.

18 A JUVENILE COURT MAY NOT ENTER AN ORDER FOR ADOPTION OF A CHILD
19 UNDER **THIS PART IV OF THIS SUBTITLE** BEFORE THE LATER OF:

20 (1) 30 DAYS AFTER THE BIRTH OF THE CHILD; OR

21 (2) ~~EXPIRATION OF THE TIME FOR REVOCATION OF CONSENT~~ 10 DAYS AFTER THE NOTICE IS
22 MAILED UNDER **§ 5-346 OF THIS SUBTITLE**.

23 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
24 5-324(2), as they related to adoptions.

25 In subsection (a) of this section, the word "promptly" is added for emphasis.

26 Defined terms:

"Child" § 5-301

"Juvenile court" § 1-101

27 ~~5-350~~ 5-349. CONSIDERATIONS.

28 (A) GENERAL.

29 IN RULING ON A PETITION FOR A CHILD'S ADOPTION UNDER **THIS PART IV OF
THIS SUBTITLE**, A JUVENILE COURT SHALL CONSIDER:

1 (1) ANY ASSURANCE BY THE LOCAL DEPARTMENT TO FUND NEEDED
2 SUPPORT FOR THE CHILD;

3 (2) ALL FACTORS NECESSARY TO DETERMINE THE CHILD'S BEST
4 INTERESTS; AND

5 (3) A REPORT BY A CHILD PLACEMENT AGENCY, COMPLETED IN
6 ACCORDANCE WITH STATE DEPARTMENT REGULATIONS, AS TO:

7 (I) THE SUITABILITY OF THE PETITIONER TO BE THE CHILD'S
8 PARENT; AND

9 (II) THE CHILD'S ~~SUCCESS-LIVING~~ **SUCCESSFUL PLACEMENT FOR ADOPTION** WITH THE
PETITIONER UNDER
10 THE SUPERVISION OF THE LOCAL DEPARTMENT OR ITS AGENT FOR AT LEAST 180
11 DAYS OR A SHORTER PERIOD ALLOWED BY THE JUVENILE COURT ON
12 RECOMMENDATION OF THE LOCAL DEPARTMENT.

13 (B) MARITAL STATUS.

14 IN RULING ON A PETITION FOR ADOPTION UNDER **THIS PART IV OF THIS**
15 **SUBTITLE**, A JUVENILE COURT MAY NOT DENY A PETITION FOR ADOPTION SOLELY
16 BECAUSE THE PETITIONER IS SINGLE OR UNMARRIED.

17 COMMITTEE NOTE: Subsections (a)(1) and (b) of this section are derived from
18 former FL §§ 5-309 and 5-316(1).

19 Subsection (a)(2) of this section is new and added to state expressly that a
20 court may consider relevant factors. Accordingly, former FL § 5-316(2),
21 which provided only for consideration of religious background, is omitted
22 as unnecessary.

23 Subsection (a)(3) of this section is new and added to reflect the
24 requirements of the referenced regulations of the State Department, in
25 COMAR 07.02.12.10.

26 In subsection (a)(1) of this section, reference to a "local department" is
27 substituted for the former reference to "the Social Services
28 Administration", to conform to current FL Title 5, Subtitle 4.

29 Also in subsection (a)(1) of this section, the former word "maintenance" is
30 omitted as included in the defined term "support".

31 In subsection (b) of this section, reference to being "unmarried" is
32 substituted for the former reference to "not hav[ing] a spouse".

33 Defined terms: "Child" § 5-301

34 "Juvenile court" § 1-101

35 "Local department" § 1-101

36 "Support" § 1-101

1 ~~5-351~~ **5-350**. AUTHORITY TO GRANT ADOPTION.

2 (A) CONSENT.

3 A JUVENILE COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER
4 **THIS PART IV OF THIS SUBTITLE** ONLY IF:

5 (1) FOR AN INDIVIDUAL UNDER THE AGE OF 18 YEARS, THE
6 INDIVIDUAL'S GUARDIAN CONSENTS; ~~OR~~ **AND**

7 (2) FOR AN INDIVIDUAL WHO IS AT LEAST 10 YEARS OLD, THE
8 INDIVIDUAL CONSENTS.

9 (B) WITHHOLDING CONSENT.

10 A GUARDIAN MAY NOT WITHHOLD CONSENT FOR THE SOLE REASON THAT THE
11 RACE, RELIGION, COLOR OR NATIONAL ORIGIN OF A PROSPECTIVE ADOPTIVE
12 PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

13 COMMITTEE NOTE: This section is derived from former FL § 5-311(b).

14 In subsection (a)(1) of this section, reference to a "guardian" of an
15 individual "under the age of 18 years" is substituted for the former
16 reference to the "executive head of the child placement agency that has
17 been award guardianship", for brevity and consistency with **new §**
18 **5-328(a)**.

19 Subsection (b) of this section is derived from former FL § 5-311(b)(2) and
20 revised to include "color" and "national origin" but omit "where to do so
21 would be contrary to the best interests of the child", to conform to the
22 federal law.

23 Defined terms: "Adoptive parent" § 5-101

24 "Child" § 5-301

25 "Juvenile court" § 1-101

26 "Parent" § 5-301

27 ~~5-352~~ **5-351**. CONSENT.

28 (A) CONTENTS AND ATTACHMENTS.

29 CONSENT OF A PARTY TO AN ADOPTION UNDER **THIS PART IV OF THIS SUBTITLE**
30 IS NOT VALID UNLESS:

31 (1) THE CONSENT NAMES THE CHILD;

32 (2) THE CONSENT CONTAINS ENOUGH INFORMATION TO IDENTIFY THE
33 PROSPECTIVE ADOPTIVE PARENT; AND

34 (3) THE PARTY HAS RECEIVED PRIOR WRITTEN OR ON THE RECORD
35 NOTICE OF:

- 1 (I) THE REVOCATION PROVISIONS IN **THIS SECTION**;
2 (II) THE SEARCH RIGHTS OF ADOPTEES AND ~~BIOLOGICAL~~ PARENTS
3 ~~UNDER § 5-359 OF THIS SUBTITLE AND SUBTITLES 4B AND 4D~~ OF THIS TITLE; AND

[NOTE: If the veto of HB 232 (2004) is overridden, subitem (ii) should read "the search rights of adoptees, parents, and siblings ...".]

- 4 (III) THE RIGHT TO FILE A DISCLOSURE VETO UNDER **§ 5-359** ~~4D~~ OF THIS **SUBTITLE** .

- 6 (B) REVOCATION BY GUARDIAN.

- 7 A GUARDIAN MAY REVOKE CONSENT TO AN ADOPTION UNDER **THIS PART IV OF**
8 **THIS SUBTITLE** AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ~~FINAL~~ ORDER OF
9 ADOPTION.

- 10 (C) REVOCATION ~~OR OBJECTION~~ BY CHILD.

- 11 A CHILD MAY REVOKE CONSENT ~~OR OBJECT~~ TO AN ADOPTION UNDER **THIS**
12 **PART IV OF THIS SUBTITLE** AT ANY TIME BEFORE A JUVENILE COURT ENTERS AN ~~FINAL~~
13 ~~FINAL~~ ORDER OF ADOPTION.

- 14 COMMITTEE NOTE: Subsection (a)(1) and (2) of this section is new and added
15 for completeness.

- 16 Subsection (a)(3) of this section is derived from former FL § 5-314(a).

- 17 Subsection (b) of this section is substituted for former FL § 5-311(c), as it
18 related to a guardian, to expand the revocation period.

- 19 Subsection (c) of this section is derived from former FL § 5-311(c)(2) ~~and~~
20 ~~revised to cover acquiescence by children not old enough for consent.~~

- 21 Former FL § 5-311(c)(3), which otherwise barred revocation, is omitted as
22 surplusage.

- 23 ~~As to "minor", see Art. 1, § 24 of the Code.~~

- 24 Defined terms: "Adoptive parent" § 5-101

- 25 "Child" § 5-301

- 26 "Juvenile court" § 1-101

- 27 "Parent" § 5-301

- 28 "Party" § 5-301

- 29 ~~5-353~~ **5-352**. ~~FINAL~~ ORDER FOR ADOPTION.

- 30 (A) EFFECT ON CHILD-PARENT RELATIONSHIP.

- 31 (1) **THIS SUBSECTION** DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
32 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

1 (2) EXCEPT AS PROVIDED IN **§ 2-123 OF THE REAL PROPERTY ARTICLE,**
2 AFTER A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION UNDER **THIS PART IV**
3 **OF THIS SUBTITLE:**

4 (I) THE ADOPTEE:

5 1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL
6 INTENTS AND PURPOSES; AND

7 2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
8 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
9 ADOPTIVE PARENT;

10 (II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

11 1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
12 TO THE ADOPTEE; AND

13 2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
14 ADOPTEE; AND

15 (III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
16 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

17 (B) EFFECT ON PENDING CASES.

18 AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS PART IV OF THIS SUBTITLE**
19 TERMINATES ALL PENDING GUARDIANSHIP CASES AS TO THE ADOPTEE.

20 (C) NOTICE OF ORDER.

21 (1) A JUVENILE COURT SHALL SEND NOTICE WHEN THE JUVENILE
22 COURT ENTERS AN ~~FINAL~~ ORDER FOR A CHILD'S ADOPTION UNDER **THIS PART IV OF**
23 **THIS SUBTITLE** TO:

24 (I) EACH JUVENILE COURT THAT HAS A PENDING GUARDIANSHIP
25 CASE AS TO THE ADOPTEE;

26 (II) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS
27 NOT WAIVED THE RIGHT TO NOTICE;

28 (III) THE PARENT'S LAST ATTORNEY OF RECORD IN THE
29 GUARDIANSHIP CASE; AND

30 (IV) THE CHILD'S LAST ATTORNEY OF RECORD IN THE
31 GUARDIANSHIP CASE.

32 (2) SERVICE ON A PARENT UNDER **THIS SUBSECTION** SHALL BE AT THE **PARENT'S LAST**
33 ADDRESS ~~LAST~~ KNOWN TO THE JUVENILE COURT.

1 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
2 5-308(a) and (b).

3 Subsections (b) and (c) of this section are new and added to state the effect
4 on pending cases and to provide for notice of the order.

5 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
6 provided in § 2-123 of the Real Property Article", is substituted for the
7 former exception "this section" - i.e., former FL § 5-308 - to reflect the
8 recodification of part of former § 5-308(d). The balance is covered by **new**
9 **subsection (a)(2)(iii)**.

10 In the introductory language of subsection (a)(2) of this section, the word
11 "order" is substituted for the former more archaic "decree".

12 In subsection (a)(2) of this section, the word "adoptee" is substituted for the
13 former references to the "individual adopted", for consistency and brevity.

14 In subsection (a)(2)(i)1 and 2 of this section, the newly defined term
15 "adoptive parent" is substituted for the former references to a "petitioner",
16 for consistency.

17 In subsection (a)(2)(i)2 of this section, the reference to "offspring born" to
18 the adoptive parent is substituted for the former reference to "a child born
19 to the petitioner in wedlock", to avoid the misleading inference that
20 illegitimacy affects a right, privilege, or obligation of a biological offspring
21 or that the age of majority might affect an adoptee differently from a
22 biological offspring.

23 In subsection (a)(2)(ii) of this section, the former reference to a "natural"
24 parent is omitted to reflect that the duties and rights of nonbiological - i.e.,
25 adoptive - relatives are affected in the same manner as a biological
26 relative's. Accordingly, in subsection (a)(2)(iii) of this section, a reference to
27 "parental" relatives is substituted for the former reference to "natural"
28 relatives.

29 Former FL § 5-308(c) and (e), which discounted any difference in orders as
30 to adults and minors or as to interlocutory and final orders, are omitted as
31 unnecessary.

32 Defined terms: "Adoptive parent" § 5-101

33 "Child" § 5-301

34 "Guardianship" § 5-301

35 "Juvenile court" § 1-101

36 "Parent" § 5-301

37 ~~5-354~~ **5-353**. PETITION TO INVALIDATE.

38 IF A PETITION TO INVALIDATE AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS**
39 **PART IV OF THIS SUBTITLE** ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL

1 DEFECT IS FILED MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A JUVENILE
2 COURT SHALL DISMISS THE PETITION.

3 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
4 revised to require dismissal rather than barring receipt, as more consistent
5 with court practices.

6 The word "order" is substituted for the former more archaic "decree".

7 Defined term: "Juvenile court" § 1-101

8 ~~5-355~~ 5-354. RESERVED.

9 ~~5-356~~ 5-355. RESERVED.

PART V. ACCESS TO RECORDS.

5-356. MEDICAL AND PSYCHOLOGICAL INFORMATION.

(A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

A LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE AND MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

(1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND PSYCHIATRIC RECORDS THAT THE LOCAL DEPARTMENT HAS; OR

(2) A COMPREHENSIVE MEDICAL AND PSYCHIATRIC HISTORY OF THE PROSPECTIVE ADOPTEE.

(B) COMPILATION OF PARENTAL HISTORY.

ON REQUEST OF AN ADOPTIVE OR PROSPECTIVE ADOPTIVE PARENT, A LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT MEDICAL AND PSYCHIATRIC HISTORY OF EACH OF THE PROSPECTIVE ADOPTEE'S OR ADOPTEE'S PARENTS OR FORMER PARENTS, IF AVAILABLE TO THE LOCAL DEPARTMENT, AND TO MAKE THE HISTORY AVAILABLE TO THE ADOPTIVE OR PROSPECTIVE ADOPTIVE PARENT.

(C) LATER RECEIVED INFORMATION.

IF, AFTER ADOPTION, A LOCAL DEPARTMENT RECEIVES MEDICAL OR PSYCHOLOGICAL INFORMATION ABOUT THE ADOPTEE OR ADOPTEE'S FORMER PARENT, THE LOCAL DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO MAKE THE INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

(D) EXCLUSION OF IDENTIFYING INFORMATION.

A MEDICAL OR PSYCHIATRIC HISTORY COMPILED UNDER **THIS SECTION** MAY NOT CONTAIN IDENTIFYING INFORMATION ABOUT A PARENT OR FORMER PARENT.

COMMITTEE NOTE: Subsection (a) of this section is new and added to provide for a local department to compile information on a prospective adoptee available to the department, including any dental records.

Subsections (b) and (d) of this section are derived from former FL § 5-328.

Subsection (c) of this section is new and added to ensure transmittal of later discovered information about an adoptee and, even without a request under subsection (b), a former parent.

In subsections (b) and (d) of this section, the references to "psychiatric" records are added to ensure inclusion of such information as available, without identifying information.

In subsection (b) of this section, the reference to a "request" is added to obviate the need to compile information that a prospective or adoptive parent does not want.

Also in subsection (b) of this section, "reasonable efforts" and "if available" are added to reflect that a local department may be unable to compile all of the information or contact a parent after an adoption.

Also in subsection (b) of this section, the newly defined term "local department" is substituted for the former reference to a "person authorized to place a minor child for adoption", for brevity and consistency with the revised scope of this proposed subtitle.

In subsection (d) of this section, the defined term "identifying information" is substituted for the former, limited reference to "identity".

Also in subsection (d) of this section, the former word "natural" is omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive - parent can be terminated in the same manner as a biological parent's can and identifying information about such parent should be protected as well.

Defined terms: "Adoptive parent" § 5-101

"Identifying information" § 5-301

"Local department" § 1-101

"Parent" § 5-301

5-357. COURT AND DEPARTMENT RECORDS.

(A) ACCESS.

(1) (I) ON REQUEST OF AN ADOPTEE OR ADOPTIVE PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF A NEED, A LOCAL DEPARTMENT SHALL PROVIDE INFORMATION, OTHER THAN IDENTIFYING INFORMATION, IN ITS ADOPTION RECORD ON THE ADOPTEE.

(II) IF A LOCAL DEPARTMENT DENIES A REQUEST UNDER **THIS PARAGRAPH**, THEN ON PETITION OF AN ADOPTEE OR ADOPTIVE PARENT AND WITHOUT A SHOWING OF NEED, A JUVENILE COURT SHALL ORDER ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE LOCAL DEPARTMENT'S RECORD ON THE ADOPTEE.

(2) ON PETITION OF AN ADOPTEE OR ADOPTIVE PARENT OF AN ADOPTEE AND WITHOUT A

SHOWING OF NEED, A JUVENILE COURT SHALL ORDER ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH **SUBSECTION (B) OF THIS SECTION**, THE JUVENILE COURT'S RECORD ON THE ADOPTEE.

(B) PROTECTION OF IDENTIFYING INFORMATION.

A JUVENILE COURT MAY NOT ORDER OPENED FOR INSPECTION UNDER **THIS SECTION** ANY PART OF A RECORD THAT CONTAINS IDENTIFYING INFORMATION AS TO A FORMER PARENT.

COMMITTEE NOTE: This section is derived from former FL § 5-329(a) and (b).

In subsection (a)(1) and (2) of this section, the references to an "adoptive parent" are substituted for the former references to a "birth parent", to foreclose an individual whose parental rights have been terminated from accessing information while allowing access to an adoptive parent.

Similarly, in subsection (b) of this section, reference to a "former" parent is substituted for the former reference to a "birth" parent, to ensure confidentiality for all individuals who have at any time previously been a "parent".

In subsection (a)(1) of this section, the newly defined term "local department" is substituted for the former references to a "child placement agency", for brevity and consistency with the revised scope of this proposed subtitle.

Defined terms: "Adoptive parent" § 5-101

"Identifying information" § 5-301

"Juvenile court" § 1-101

"Local department" § 1-101

"Parent" § 5-301

5-358. URGENTLY NEEDED MEDICAL INFORMATION.

(A) HEARING ON NEED.

IF, AFTER A HEARING ON PETITION OF AN ADOPTEE, A JUVENILE COURT IS SATISFIED THAT THE ADOPTEE OR BLOOD RELATIVE OF THE ADOPTEE URGENTLY NEEDS MEDICAL INFORMATION NOT IN LOCAL DEPARTMENT AND JUVENILE COURT RECORDS, THE JUVENILE COURT MAY APPOINT AN INTERMEDIARY TO TRY TO CONTACT A FORMER PARENT OF THE ADOPTEE FOR THE INFORMATION.

(B) ROLE OF INTERMEDIARY.

AN INTERMEDIARY APPOINTED UNDER **THIS SECTION**:

(1) ONLY MAY ADVISE A FORMER PARENT OF THE NEED FOR MEDICAL INFORMATION; AND

(2) MAY NOT:

(I) REVEAL ANY IDENTIFYING INFORMATION OF AN ADOPTEE; OR

(II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE CONTACT BETWEEN AN

ADOPTEE AND FORMER PARENT.

(C) REPORT TO COURT.

AN INTERMEDIARY APPOINTED UNDER **THIS SECTION** SHALL FILE WITH THE APPOINTING JUVENILE COURT A CONFIDENTIAL WRITTEN REPORT ON THE INTERMEDIARY'S EFFORTS TO CONTACT A FORMER PARENT.

(D) DISCLOSURE BY COURT.

WHEN A JUVENILE COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE JUVENILE COURT MAY DISCLOSE TO THE ADOPTEE, WITHOUT REVEALING IDENTIFYING INFORMATION ABOUT ANY FORMER PARENT:

(1) WHETHER THE INTERMEDIARY ADVISED A FORMER PARENT ABOUT THE NEED FOR MEDICAL INFORMATION; AND

(2) MEDICAL INFORMATION THAT A FORMER PARENT PROVIDED.

(E) COMPENSATION.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A JUVENILE COURT MAY ORDER AN ADOPTEE TO PAY A REASONABLE FEE FOR THE SERVICES OF AN INTERMEDIARY UNDER **THIS SECTION**.

COMMITTEE NOTE: This section is derived from former FL § 5-329(c) through (e) and revised to clarify that an intermediary is allowed to contact only a former parent and not a spouse, child, or other family member of a former parent.

Throughout this section, references to a "former" parent are substituted for the former references to a "birth" parent, to recognize that, e.g., a former parent, by adoption, may have information about an adoptee or biological parent.

In subsection (a) of this section, the newly defined term "local department" is substituted for the former reference to the "child placement agency", for brevity and consistency with the revised scope of this subtitle.

Also in subsection (a) of this section, the former reference to "evidence presented at the hearing" is omitted as unnecessary in light of the rules governing proceedings generally and as potentially over narrow should a court request memoranda or other submissions to which an opposing party has an opportunity to respond.

Defined terms: "Identifying information" § 5-301

"Juvenile court" § 1-101

"Local department" § 1-101

"Parent" § 5-301

5-359. VITAL RECORDS.

(A) DEFINITIONS.

(1) IN **THIS SECTION** THE FOLLOWING WORDS HAVE THE MEANINGS STATED.

(2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

(3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A JUVENILE COURT ENTERS AN ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

(C) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT BAR:

(1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH, CONTACT, AND REUNION SERVICES UNDER **SUBTITLE 4B OF THIS TITLE**; OR

(2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM OBTAINING A COPY OF A RECORD UNDER **§ 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS TITLE**.

(D) APPLICATION FOR RECORD.

(1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH, IF ANY; OR

(III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

(2) A BIOLOGICAL PARENT OF AN ADOPTEE WHO HAS ATTAINED 21 YEARS MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) THE NEW CERTIFICATE OF BIRTH, IF ANY, THAT WAS SUBSTITUTED, UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE, FOR THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH; OR

(IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

(3) EACH APPLICANT UNDER THIS SUBSECTION SHALL:

(I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT INFORMATION THAT THE SECRETARY REQUIRES; AND

(II) PAY THE FEE REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE FOR A COPY OF A RECORD.

(E) DISCLOSURE VETO.

(1) A BIOLOGICAL PARENT MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE UNDER THIS SECTION;

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(2) AFTER AN ADOPTEE ATTAINS 21 YEARS OF AGE, THE ADOPTEE MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE UNDER THIS SECTION;

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO OR CANCELLATION UNDER THIS SECTION, THE DIRECTOR SHALL FORWARD A COPY TO THE SECRETARY.

(F) DUTIES OF SECRETARY.

(1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SECTION A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND THAT THE SECRETARY HAS ON FILE.

(3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

(I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION; AND

(II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

(4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO A BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH THIS SECTION.

(5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER THIS SECTION NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES AVAILABLE UNDER SUBTITLE 4B OF THIS TITLE.

COMMITTEE NOTE: Subsection (a) of this section is new and added to allow concise reference to the Director and Secretary.

Subsections (b) through (f) of this section are derived from former FL §§ 5-3A-01 through 5-3A-07.

In subsection (e)(3) of this section, a duty to forward a cancellation is added, for completeness.

Defined terms: "Adoptive parent" § 5-101

"Juvenile court" § 1-101

"Parent" § 5-301

5-360. RESERVED.

5-361. RESERVED.

10

PART ~~VI~~ VI. PROHIBITED ACTS.

11 ~~5-357~~ 5-362. PROHIBITED PAYMENTS.

12 (A) PROHIBITED ACT.

13 EXCEPT AS OTHERWISE PROVIDED BY LAW, A GOVERNMENTAL UNIT OR A
 14 PERSON MAY NOT CHARGE OR RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE
 15 ADOPTIVE PARENT, ANY COMPENSATION FOR A SERVICE IN CONNECTION WITH:

16 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
 17 ~~FAMILY~~ PARENT, AS DEFINED IN § 3-823(I)(1) OF THE COURTS ARTICLE; OR

18 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

19 (B) CONSTRUCTION OF SECTION.

20 (1) IN **THIS SUBSECTION**, "ADMINISTRATION" MEANS THE SOCIAL
21 SERVICES ADMINISTRATION OF THE STATE DEPARTMENT.

22 (2) **THIS SECTION** DOES NOT:

23 (I) PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF A
24 CUSTOMARY AND REASONABLE CHARGE OR FEE FOR HOSPITAL, LEGAL, OR MEDICAL
25 SERVICES; OR

26 (II) PREVENT THE ADMINISTRATION, OR A PERSON THAT THE
27 ADMINISTRATION LICENSES OR SUPERVISES, FROM RECEIVING AND ACCEPTING
28 REASONABLE REIMBURSEMENT FOR COSTS OF AN ADOPTIVE SERVICE IN
29 CONNECTION WITH ADOPTION, IF:

30 1. THE REIMBURSEMENT IS IN ACCORDANCE WITH
31 STANDARDS SET BY REGULATION OF THE ADMINISTRATION; AND

32 2. THE ABILITY TO PROVIDE THIS REIMBURSEMENT DOES
33 NOT AFFECT:

1 A. THE ACCEPTABILITY OF ANY INDIVIDUAL FOR ADOPTIVE
2 SERVICES; OR

3 B. THE CHOICE OF THE MOST SUITABLE PROSPECTIVE
4 ADOPTIVE PARENT.

5 (C) DUTY OF STATE'S ATTORNEY.

6 EACH STATE'S ATTORNEY SHALL ENFORCE **THIS SECTION**.

7 (D) PENALTIES.

8 A PERSON WHO VIOLATES ANY PROVISION OF **THIS SECTION** IS GUILTY OF A
9 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
10 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

11 COMMITTEE NOTE: Subsections (a), (b)(2), (c), and (d) of this section are
12 derived from former FL § 5-327(a), (b), (d), and (e) and the substance of §
13 5-301(j), which defined "placement for adoption".

14 Subsection (b)(1) of this section is new and added to allow concise reference
15 to the Administration.

16 In subsections (a) and (b)(2)(ii)2B of this section, references to a
17 prospective "adoptive parent" are substituted for the former references to
18 the "individual who is adopting the individual" and the prospective
19 adoptive "family or individual for a child who is to be adopted", for brevity
20 and consistency with other references throughout this subtitle.

21 In subsection (a) of this section, the phrase "by law" is added to delineate
22 the scope of the exception.

23 Also in subsection (a) of this section, the reference to a "governmental unit
24 or person" is substituted for the former references to "an agency,
25 institution, or individual", to state expressly that governmental units are
26 covered - a private "agency, institution, or individual" being within the
27 defined term "person".

28 In subsection (b)(2) of this section, however, "person" is substituted for the
29 former reference to an "agency or institution", as the Administration does
30 not license or supervise another governmental unit for adoption purposes.

31 In subsection (b)(2)(i) of this section, the former word "rules" is deleted in
32 light of the definition of "regulation" in SG § 10-101 and the usage of
33 "regulation" for Executive Branch units and "rule" for Judicial Branch
34 units.

35 In subsection (c) of this section, a duty to "enforce" is substituted for the
36 former duty to "prosecute any violation", as more consistent with
37 prosecutorial discretion.

1 In subsection (d) of this section, reference to a violation of "any provision"
2 is added to clarify that a prosecutor need not show violation of every
3 provision.

4 Defined terms: "Adoptive parent" § 5-101

5 "Person" § 1-101

6 "Parent" § 5-301

7 "State Department" § 5-101

8 SUBTITLE 3A. VOLUNTARY AGENCY GUARDIANSHIP AND ADOPTION.

9 PART I. GENERAL PROVISIONS.

10 5-3A-01. DEFINITIONS.

11 (A) IN GENERAL.

12 IN **THIS SUBTITLE** THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only a
14 stylistic change is made.

15 (B) CHILD.

16 "CHILD" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A GUARDIANSHIP OR
17 ADOPTION PETITION UNDER **THIS SUBTITLE**.

18 COMMITTEE NOTE: This subsection is new and added to allow concise
19 reference to the subject of a petition under this subtitle. Use of the word
20 "child" as the defined term reflects that, in some instances, a petition must
21 be filed during the minority of the subject and, in any event, that most
22 petitions involve minors. Such usage, however, is not intended to suggest
23 that an individual who is a minor when a petition is filed will not be an
24 adult by the time a court rules on the petition.

25 Defined term: "Guardianship" § 5-3A-01

26 (C) GUARDIANSHIP.

27 "GUARDIANSHIP" MEANS:

28 (1) AN AWARD, UNDER **THIS SUBTITLE**, OF ANY POWER OF A GUARDIAN;
29 OR

30 (2) IF REQUIRED BY THE CONTEXT, A COMPARABLE AWARD BY A COURT
31 OUTSIDE THIS STATE.

32 COMMITTEE NOTE: This subsection is substituted for former FL § 5-301, to
33 delineate comparable grants of power by other jurisdictions.

1 (D) IDENTIFYING INFORMATION.

2 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
3 IDENTITY OR LOCATION OF AN INDIVIDUAL.

4 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
5 restated in positive, rather than negative, terms, for consistency with
6 comparable provisions such as current FL § 5-701(i).

7 (E) PARENT.

8 (1) "PARENT" MEANS AN INDIVIDUAL WHO, AT THE TIME A PETITION
9 FOR GUARDIANSHIP OR ADOPTION IS FILED UNDER **THIS SUBTITLE** OR AT ANY TIME
10 BEFORE A COURT TERMINATES THE INDIVIDUAL'S PARENTAL RIGHTS:

11 (I) MEETS A CRITERION IN **§ 5-3A-06(A) OF THIS SUBTITLE**; OR

12 (II) IS THE MOTHER.

13 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
14 ADJUDICATED NOT TO BE A FATHER OR MOTHER.

15 COMMITTEE NOTE: This subsection is new and added to allow concise
16 reference to an individual who is a party to, or has the right to notice of, a
17 case under this subtitle due to a parental relationship.

18 Defined terms: "Guardianship" § 5-3A-01

19 "Includes" § 1-101

20 "Including" § 1-101

21 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in **new**
22 **§ 5-3A-01**, definitions in §§ 1-101 and 5-101 of this article apply to this
23 subtitle.

24 5-3A-02. SCOPE OF SUBTITLE.

25 (A) APPLICATION.

26 **THIS SUBTITLE** APPLIES ONLY TO:

27 (1) GUARDIANSHIP BY A CHILD PLACEMENT AGENCY OF A CHILD OTHER
28 THAN A CHILD IN NEED OF ASSISTANCE; AND

29 (2) ADOPTION OF THE CHILD.

30 (B) EFFECT.

31 EXCEPT AS EXPRESSLY PROVIDED IN **THIS SUBTITLE**, ~~THIS SUBTITLE~~ IT DOES NOT
32 AFFECT AN ADOPTION:

1 (1) FOR WHICH A COURT ENTERED AN ~~FINAL~~ ORDER ON OR BEFORE ~~MAY~~
2 ~~31, 1947~~ **SEPTEMBER 30, 2005**; OR

3 (2) PENDING ON ~~JUNE 1, 1947~~ **OCTOBER 1, 2005**.

4 COMMITTEE NOTE: Subsection (a) of this section is new and added to make
5 clear the scope of this new subtitle.

6 Subsection (b) of this section is ~~derived from~~ **substituted for** former FL § 5-302, **which stated the effect of the former FL**
provisions and became obsolete with the enactment of this subtitle.

7 Defined terms: "Child" § 5-3A-01

8 "Child in need of assistance" § 1-101

9 "Child placement agency" § 5-101

10 "Guardianship" § 5-3A-01

11 5-3A-03. STATEMENT OF FINDINGS; PURPOSES.

12 (A) STATEMENT OF FINDINGS.

13 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
14 **THIS SUBTITLE** ARE DESIRABLE AND SOCIALLY NECESSARY.

15 (B) PURPOSES.

16 THE PURPOSES OF **THIS SUBTITLE** ARE TO:

17 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
18 CONSISTENT WITH THEIR BEST INTERESTS;

19 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
20 THEIR PARENTS;

21 (3) ENSURE ADOPTION ONLY INTO FAMILIES FIT FOR THE
22 RESPONSIBILITY;

23 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
24 AGREEMENTS TO TERMINATE PARENTAL RIGHTS;

25 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY PROVIDING THEM
26 INFORMATION ABOUT PROSPECTIVE ADOPTEES AND THEIR BACKGROUNDS; AND

27 (6) PROTECT ADOPTIVE PARENTS FROM A FUTURE DISTURBANCE OF
28 THEIR RELATIONSHIP WITH ADOPTEES BY FORMER PARENTS.

29 COMMITTEE NOTE: This section is derived from former FL § 5-303.

30 In subsection (a) of this section, the former clause "that concern adoption"
31 is deleted as the findings apply to guardianship as well.

32 In subsection (b)(1) of this section, reference to "timely" provision of
33 "permanent and safe homes ... consistent with [the children's] best

interests" is substituted for the former reference to "stable homes that protect ... safety and health", to emphasize the need for prompt resolution of a case in accordance with the "best interests" standard applicable under, e.g., former FL §§ 5-308, 5-311, 5-313, and 5-317.

In subsection (b)(2) and (4) of this section, the former word "natural" is omitted to reflect that the parental rights of a nonbiological - i. e., adoptive - parent can be terminated in the same manner as a biological parent's can. Similarly, in subsection (b)(6) of this section, the word "former" is substituted for "natural", to encompass all individuals who have at any time previously been a "parent".

In subsection (b)(3) of this section, reference to "ensur[ing] adoption only into families" is substituted for the former reference to "permit[ting] adoption only by individuals", to reflect that adoption is not only by a petitioner but into the petitioner's family, which could be one or more individuals.

In subsection (b)(5) of this section, the word "prospective" is added to modify "adoptive parents", to reflect that information is provided before completion of an adoption.

Defined terms: "Adoptive parent" § 5-101

"Child" § 5-3A-01

"Parent" § 5-3A-01

5-3A-04. RELATIONSHIP WITH **TITLE 5, SUBTITLE 5.**

THIS SUBTITLE IS RELATED TO AND SHOULD BE READ IN RELATION TO **SUBTITLE 5 OF THIS TITLE.**

COMMITTEE NOTE: This section formerly was FL § 5-304. No change is made.

5-3A-05. FOREIGN ORDERS.

(A) ~~FINAL~~ ORDER OF ANOTHER STATE.

IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL ACCORD FULL FAITH AND CREDIT TO:

(1) ~~AN FINAL~~ ORDER OF ANOTHER STATE AS TO ADOPTION OR GUARDIANSHIP IN COMPLIANCE WITH THE OTHER STATE'S LAWS; OR

(2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE OTHER STATE'S LAWS.

(B) OTHER FOREIGN ORDERS.

AS TO A JURISDICTION OTHER THAN A STATE:

(1) ~~AN FINAL~~ ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS ~~AN FINAL~~ ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS STATE; AND

(2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF PARENTAL RIGHTS IN THIS STATE.

(C) CONSTRUCTION.

1 **THIS SECTION** MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
2 PETITION A COURT IN THIS STATE FOR ADOPTION OF AN ADOPTEE IF:

3 (1) THE INDIVIDUAL ADOPTED THE ADOPTEE IN COMPLIANCE WITH
4 THE LAWS OF A JURISDICTION OTHER THAN A STATE; AND

5 (2) THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
6 VERIFIES THE VALIDITY OF THAT ADOPTION BY GRANTING, UNDER THE FEDERAL
7 IMMIGRATION AND NATIONALITY ACT, AN IR-3 VISA FOR THE ADOPTEE.

8 COMMITTEE NOTE: Subsections (a)(1) and (b)(1) of this section are derived from
9 former FL § 5-326 but bifurcated to reflect that the full faith and credit
10 clause is applicable to "states" as provided in "the United States Constitution". Accordingly, in subsections (a) and (b) of
11 this section, respectively, the defined term "state" and the reference to a
12 "jurisdiction other than a state" are substituted for the former term
13 "jurisdiction". Subsections (a)(1) and (b)(1) are revised to cover orders for "guardianship", as well.

Subsections (a)(2) and (b)(2) of this section are added to provide expressly for recognition of foreign orders relating to termination of parental rights.

14 Subsection (c) of this section is derived from former FL § 5-313.1.

15 In subsections (a)(1) and (b)(1) of this section, the references to "compliance with the ... laws"
16 is **are** added to state expressly that an order being recognized must be a lawful
17 order.

Also in subsections (a)(1) and (b)(1) of this section, the word "order" is substituted for the former, more archaic "decree".

18 In subsection (c)(2) of this section, reference to the "Citizenship and
19 Immigration Services" is substituted for the **former**, obsolete reference to the
20 "Immigration and Naturalization Service".

21 Defined terms: "Guardianship" § 5-3A-01

22 "State" § 1-101

23 5-3A-06. PATERNITY.

[NOTE – Remember when decision made on § 5-306 in light of *In re Thomas H.* (COA: 5/10/04).]

24 (A) PRESUMPTION.

25 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
26 FATHER IF:

27 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
28 THE CHILD'S CONCEPTION;

29 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
30 THE CHILD'S BIRTH;

31 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
32 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

33 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
34 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

35 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

1 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
2 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

3 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
4 THE CHILD'S BIOLOGICAL FATHER.

5 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

6 (1) A PETITIONER UNDER **THIS SUBTITLE** SHALL GIVE A COURT NOTICE
7 THAT A MAN WHO IS NOT NAMED IN THE PETITION AND HAS NOT BEEN EXCLUDED
8 AS A FATHER CLAIMS PATERNITY.

9 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
10 ON A PETITION FOR GUARDIANSHIP OR ADOPTION **UNDER THIS SUBTITLE**, A COURT SHALL HOLD A
HEARING
11 ON THE ISSUE OF PATERNITY.

12 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
13 derived from former FL § 5-310.

14 Subsection (a)(7) of this section is new and added to reflect the increasing
15 reliance on the accuracy of genetic testing.

16 The introductory clause of subsection (a) of this section, "[u]nless a court
17 excludes a man as the father of a child", is substituted for the former
18 disclaimer "unless ... his nonpaternity has been established to the
19 satisfaction of the court by affidavit or testimony", which pertained only to
20 the provisions revised in subsection (a)(3) and (4) of this section, as a
21 finding by a court should pertain to all of the criteria under subsection (a)
22 of this section.

23 In subsection (a) of this section, the word "man" is substituted for the
24 former reference to "an individual who does not meet the criteria for being
25 a natural father ... claims to be the natural father", for brevity and to
26 reflect that fatherhood could result from, e.g., an earlier adoption.

27 ~~In subsection (a)(1), (2), and (6) of this section, the former word "natural" is~~
28 ~~omitted, to reflect that parental status could result from, e. g., an earlier~~
29 ~~adoption. Similarly, in subsection (b)(1) of this section, reference to a "man~~
30 ~~who is not named in the petition and has not been excluded as a father" is~~
31 ~~substituted for the former reference to "an individual who does not meet~~
32 ~~the criteria for being a natural father".~~

33 In subsection (b)(2) of this section, the limitation "before ruling on a
34 petition for guardianship or adoption" is added to clarify the period during
35 which a court may act.

36 Also in subsection (b)(2) of this section, the reference to a "request of a
37 party or claimant" is substituted for the former reference to "receipt of
38 notice", to allow a claimant, as well as a petitioner, to request a hearing but
39 obviate the need for a hearing if no one requests one.

1 Defined terms: "Child" § 5-3A-01

2 "Guardianship" § 5-3A-01

3 "Party" § 5-3A-01

4 5-3A-07. **APPOINTED** COUNSEL.

5 (A) PARENT.

6 (1) IN A CASE UNDER **THIS SUBTITLE**, A COURT SHALL APPOINT AN
7 ATTORNEY TO REPRESENT A PARENT WHO:

8 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
9 EFFECTIVELY PARTICIPATING IN THE CASE; OR

10 (II) WHEN THE PARENT MUST DECIDE WHETHER TO CONSENT
11 UNDER **THIS SUBTITLE**, IS STILL A MINOR.

12 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
13 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN
14 MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

15 (B) CHILD.

16 IN A CASE UNDER **THIS SUBTITLE**, A COURT MAY APPOINT COUNSEL FOR A
17 CHILD WHO IS A MINOR.

18 (C) DUAL REPRESENTATION.

19 AN ATTORNEY OR FIRM:

20 (1) MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS
21 SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW; AND

22 (2) MAY NOT REPRESENT A PROSPECTIVE ADOPTIVE PARENT AND
23 PARENT IN THE SAME CASE.

24 (D) COMPENSATION.

25 COUNSEL APPOINTED UNDER **THIS SECTION** MAY BE COMPENSATED FOR
26 REASONABLE FEES, AS APPROVED BY THE COURT.

27 COMMITTEE NOTE: Subsection (a)(1)(i) of this section is derived from former
28 FL § 5-323(a)(1)(ii), as it related to adoptions.

29 Subsection (a)(1)(ii) of this section is derived from former FL §
30 5-323(a)(1)(iii), as it related to adoptions, and the substance of former FL
31 § 5-301(h).

32 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
33 5-323(c).

1 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i),
2 as it related to adoptions.

3 Subsection (c) of this section is substituted for former FL § 5-323(e), to
4 ensure that dual representation is allowed under this subtitle only if not
5 inconsistent with the Md. Rules of Professional Conduct and, in any event,
6 not for both the prospective adoptive parent and parent.

7 Subsection (d) of this section is derived from the first sentence of former
8 FL § 5-323(d).

9 In subsection (a) of this section, the former word "natural" is deleted as a
10 nonbiological - i.e., adoptive - parent can allow adoption in the same
11 manner as a biological parent can.

12 In subsection (a)(1)(i) of this section, reference to "effectively participating"
13 is substituted for the former reference to "consenting and effectively
14 participating", to conform to former FL § 5-323(c) - **new subsection (a)(2) of this section** -
15 which, by reference to "consenting and otherwise effectively participating",
16 made clear that consent is part of effective participation.

17 In subsections (a)(2) and (b) of this section, the newly defined terms
18 "parent" and "child" are substituted for the former word "individual" for
19 consistency with other provisions of this section.

20 Former FL § 5-323(a)(1)(iv), which provided for representation in a
21 contested adoption case, is ~~deleted~~ **omitted** from this subtitle.

22 As to "minor", *see* **Art. 1, § 24 of the Code**.

23 Defined terms: "Adoptive parent" § 5-101

24 "Child" § 5-3A-01

25 "Disability" § 5-101

26 "Parent" § 5-3A-01

27 5-3A-08. AGREEMENT FOR POSTADOPTION CONTACT.

28 (A) AUTHORIZED.

29 (1) A PROSPECTIVE ADOPTIVE PARENT AND PARENT OF A PROSPECTIVE
30 ADOPTEE UNDER **THIS SUBTITLE** MAY ENTER INTO A WRITTEN AGREEMENT TO
31 ALLOW CONTACT, AFTER THE ADOPTION, BETWEEN:

32 (I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

33 (II) THE ADOPTEE OR ADOPTIVE PARENT.

34 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
35 UNDER **THIS SUBTITLE** MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
36 CONTACT BETWEEN:

- 1 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND
2 (II) THE ADOPTEE OR ADOPTIVE PARENT.

3 (B) CONSTRUCTION OF AGREEMENT.

4 AN AGREEMENT MADE UNDER **THIS SECTION** APPLIES TO CONTACT WITH AN
5 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

6 (C) DISSEMINATION; REDACTION.

7 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN **SUBSECTION**
8 **(A)(1) OF THIS SECTION**:

9 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
10 THE PROSPECTIVE ADOPTEE UNDER **THIS SUBTITLE**; AND

11 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
12 INFORMATION FROM ALL COPIES.

13 (D) EFFECT OF NONCOMPLIANCE.

14 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
15 **THIS SECTION** IS NOT A GROUND FOR REVOKING CONSENT TO, ~~AN ADOPTION OR~~
16 SETTING ASIDE AN ORDER FOR, ADOPTION OR GUARDIANSHIP.

17 (E) ENFORCEMENT.

18 A COURT SHALL ENFORCE A WRITTEN AGREEMENT MADE IN ACCORDANCE
19 WITH **THIS SECTION** UNLESS ENFORCEMENT IS NOT IN THE ADOPTEE'S BEST
20 INTERESTS.

21 COMMITTEE NOTE: This section is new and added to create a formal
22 procedure for agreements as to postadoption visits. As to "minor", see **Art.**
23 **1, § 24 of the Code**.

24 Defined terms: "Adoptive parent" § 5-101

25 "Guardianship" § 5-3A-01

26 "Identifying information " § 5-3A-01

27 "Parent" § 5-3A-01

28 5-3A-09. COSTS.

29 A COURT MAY ASSIGN AMONG THE PARTIES TO A CASE UNDER **THIS SUBTITLE**,
30 AS THE COURT CONSIDERS APPROPRIATE, COUNSEL FEES AND THE COST OF
31 TESTING.

32 COMMITTEE NOTE: This section is derived from the second sentence of former
33 FL § 5-323(d) and revised as a separate provision stating expressly that
34 "cost" is not limited to counsel fees but covers the newly referenced
35 "testing" fees.

1 5-3A-10. APPEAL.

2 A PARTY TO A CASE UNDER **THIS SUBTITLE** MAY APPEAL TO THE COURT OF
3 SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER.

4 COMMITTEE NOTE: This section is derived from former FL § 5-330.

5 5-3A-11. RESERVED.

6 5-3A-12. RESERVED.

7 PART II. GUARDIANSHIP PROCEEDING.

8 5-3A-13. PETITION.

9 (A) PETITIONER. ~~ONLY~~

ONLY A CHILD PLACEMENT AGENCY MAY PETITION FOR
10 GUARDIANSHIP UNDER **THIS SUBTITLE**.

11 (B) CHILD.

12 A COURT MAY GRANT GUARDIANSHIP UNDER **THIS SUBTITLE** ONLY FOR A
13 CHILD.

14 (C) CONTENTS.

15 A PETITIONER SHALL ATTACH TO A PETITION:

16 (1) ALL WRITTEN CONSENTS FOR THE GUARDIANSHIP THAT THE
17 PETITIONER HAS; AND

18 (2) IF APPLICABLE:

19 (I) PROOF OF GUARDIANSHIP OR RELINQUISHMENT OF PARENTAL
20 RIGHTS GRANTED BY AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY OF A
21 STATE OR OTHER JURISDICTION; AND

22 (II) CERTIFICATION THAT THE GUARDIANSHIP OR
23 RELINQUISHMENT WAS GRANTED IN COMPLIANCE WITH THE JURISDICTION'S LAWS.

24 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
25 5-317(b).

26 Subsection (b) of this section is derived from former FL § 5-307(b).

27 Subsection (c) of this section is new and added to mandate inclusion of the
28 requisite consents and other documentation.

29 In subsection (a) of this section, the former authority for a child to petition
30 is deleted.

31 ~~As to "minor", see Art. 1, § 24 of the Code.~~

1 Defined terms: "Child" § 5-3A-01

2 "Child placement agency" § 5-101

3 "Guardianship" § 5-3A-01

4 "State" § 1-101

5 5-3A-14. NOTICE OF FILING.

6 (A) REQUIREMENT.

7 WITHIN 5 DAYS AFTER A PETITION FOR GUARDIANSHIP OF A CHILD IS FILED
8 WITH A COURT, THE CLERK SHALL SEND A COPY OF THE PETITION AND NOTICE OF
9 FILING TO:

10 (1) EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT WAIVED THE RIGHT
10 TO NOTICE; AND

(2) EACH LIVING PARENT'S ATTORNEY OF RECORD.

11 (B) METHOD.

12 NOTICE UNDER **THIS SECTION** SHALL BE BY ~~FIRST-CLASS~~ **FIRST CLASS** MAIL.

13 (C) PARENTAL ADDRESS.

14 NOTICE UNDER **THIS SECTION** SHALL BE SENT TO A PARENT'S LAST ADDRESS
15 KNOWN TO THE COURT.

16 COMMITTEE NOTE: This section is new and added to state an express duty for
17 notice by a clerk of court.

18 Defined terms: "Child" § 5-3A-01

19 "Guardianship" § 5-3A-01

20 "Parent" § 5-3A-01

21 5-3A-15. ORDER TO SHOW CAUSE.

22 (A) REQUIREMENT.

23 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO GUARDIANSHIP OF A CHILD, A
24 PETITIONER SHALL SERVE THE ORDER ON EACH OF THE CHILD'S LIVING PARENTS
25 WHO HAS NOT CONSENTED TO THE GUARDIANSHIP.:

26 (B) METHOD.

27 SERVICE UNDER **THIS SECTION** SHALL BE BY:

28 (1) PERSONAL SERVICE; OR

29 (2) CERTIFIED MAIL, RESTRICTED DELIVERY, RETURN RECEIPT
30 REQUESTED.

31 (C) PARENTAL ADDRESS.

32 SERVICE ON A PARENT UNDER **THIS SECTION** SHALL BE ATTEMPTED AT THE **PARENT'S LAST**
33 ~~LATEST~~ ADDRESS KNOWN TO THE PETITIONER.

1 (D) PUBLICATION.

2 (1) IF A COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY, THAT A
3 PETITIONER MET THE REQUIREMENTS OF **THIS SECTION** BUT COULD NOT EFFECT
4 SERVICE ON A PARENT, THE COURT SHALL ORDER SERVICE THROUGH NOTICE BY
5 PUBLICATION AS TO THAT PARENT.

6 (2) NOTICE UNDER **THIS SUBSECTION** SHALL CONSIST OF
7 SUBSTANTIALLY THE FOLLOWING STATEMENT:

TO: (FATHER'S NAME)TO: (MOTHER'S NAME)TO: UNKNOWN PARENT

8 "YOU ARE HEREBY NOTIFIED THAT A GUARDIANSHIP CASE HAS BEEN
9 FILED IN THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER).
10 ALL PERSONS WHO BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR
11 FEMALE) CHILD BORN ON (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S
12 AND FATHER'S NAMES **AND DATES OF BIRTH**) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE
13 PETITION MAY BE OBTAINED FROM THE CLERK'S OFFICE AT (ADDRESS)
14 AND (TELEPHONE NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION
15 BY (DEADLINE), YOU WILL HAVE AGREED TO THE PERMANENT LOSS OF
16 YOUR PARENTAL RIGHTS TO THIS CHILD."

~~15 YOUR PARENTAL RIGHTS TO THIS CHILD."~~

17 (3) SERVICE UNDER **THIS SUBSECTION** SHALL BE BY:

18 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
19 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PARENT LAST RESIDED OR,
20 IF UNKNOWN, WHERE THE PETITION IS FILED; OR

21 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE STATE
22 DEPARTMENT.

23 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
24 5-322(a) (3) and , as it related to guardianship, (1)(i).

25 Subsection (b) of this section is substituted for the former reference to
26 "both certified mail and private process" in former FL § 5-322(c)(2).

27 Subsection (c) of this section is derived from former FL § 5-322(a)(3).

28 Subsection (d)(1), (2), and (3)(i) of this section is derived from former FL §
29 5-322(c)(1) and (2).

30 Subsection (d)(3)(ii) of this section is new and added to afford an
31 alternative means of notice by publication on a website.

32 In subsection (d)(1) of this section, the former limitation "[i]f the child has
33 not been adjudicated to be a child in need of assistance in a prior juvenile
34 proceeding" is omitted as unnecessary in light of the scope of this subtitle
35 under **new § 5-3A-02(a)**.

36 As to a newspaper in general circulation, see **Art. 1, § 28 of the Code**.

1 Defined terms: "Child" § 5-3A-01

2 "County" § 1-101

3 "Guardianship" § 5-3A-01

4 "Parent" § 5-3A-01

5 "State Department" § 5-101

6 5-3A-16. INVESTIGATION.

7 IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER **§ 5-3A-21 OF THIS**
8 **SUBTITLE**, BEFORE RULING ON A GUARDIANSHIP PETITION, A COURT MAY ORDER
9 ANY INVESTIGATION THAT THE COURT CONSIDERS NECESSARY.

10 COMMITTEE NOTE: This section is derived from the references to
11 investigations in former FL § 5-317(c)(1) and (g)(1).

12 Defined term: "Guardianship" § 5-3A-01

13 5-3A-17. TIME LIMITS.

14 (A) MAXIMUM LIMIT.

15 SUBJECT TO **SUBSECTION (B) OF THIS SECTION**, A COURT SHALL RULE ON A
16 GUARDIANSHIP PETITION UNDER **THIS SUBTITLE** WITHIN 180 DAYS AFTER THE
17 PETITION IS FILED.

18 (B) MINIMUM LIMIT.

19 A COURT MAY NOT ENTER A FINAL ORDER FOR GUARDIANSHIP UNDER THIS
20 SUBTITLE UNTIL THE LATER OF EXPIRATION OF THE TIME FOR:

21 (1) REVOCATION OF CONSENT; AND

22 (2) THE FILING OF A NOTICE OF OBJECTION.

23 COMMITTEE NOTE: This section is derived from former FL §§ 5-317(d) and
24 5-324(2), as they related to guardianship.

25 ~~Former FL § 5-324(1), which barred guardianship until 30 days after~~
26 ~~birth, is deleted as unnecessary in light of new § 5-3A-19(a)(2)(i).~~

27 Defined term: "Guardianship" § 5-3A-01

28 5-3A-18. AUTHORITY TO GRANT GUARDIANSHIP.

29 (A) CONSENT OR BEST INTERESTS.

30 (1) A COURT MAY GRANT A GUARDIANSHIP OF A CHILD ONLY IF:

31 (I) 1. EACH OF THE CHILD'S LIVING PARENTS CONSENTS:

32 A. IN WRITING; OR

1 B. BY FAILURE TO TIMELY FILE NOTICE OF OBJECTION
 2 AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS
 3 SUBTITLE; OR

4 2. IF AN ADMINISTRATIVE, EXECUTIVE, OR JUDICIAL BODY
 5 OF A STATE OR OTHER JURISDICTION HAS GRANTED A PERSON OTHER THAN A
 6 PARENT THE POWER TO CONSENT TO ADOPTION, THE PERSON CONSENTS; OR

7 (2) IN ACCORDANCE WITH **§ 5-3A-21 OF THIS SUBTITLE**, THE COURT
 8 ORDERS GUARDIANSHIP WITHOUT CONSENT OTHERWISE REQUIRED UNDER **THIS**
 9 **SECTION**.

10 (B) CONDITIONAL CONSENT.

11 ~~THIS SECTION MAY NOT BE CONSTRUED TO PREVENT A PERSON FROM~~
 12 ~~CONDITIONING CONSENT ON PLACEMENT FOR ADOPTION INTO A SPECIFIC FAMILY.~~

A PERSON:

(1) MAY CONDITION CONSENT OR ACQUIESCENCE ON ADOPTION INTO A SPECIFIC FAMILY
 THAT A CHILD PLACEMENT AGENCY HAS APPROVED FOR THE PLACEMENT; BUT

(2) MAY NOT CONDITION CONSENT OR ACQUIESCENCE ON ANY FACTOR OTHER THAN
 PLACEMENT INTO A SPECIFIC FAMILY.

[QUERY: Are there supposed to be provisions comparable to new §§ 5-318(a)(2)(iii) and 5-327?]

13 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §§
 14 5-317(c)(2) and 5-322(d)(1), as they related to guardianship under this
 15 subtitle.

16 Subsection (b) of this section is new and added to provide expressly for
 17 conditional consent or acquiescence. The requirement for approval by a child placement agency should not be construed to
 require approval before entry of a guardianship order.

18 In subsection (a) of this section, the former word "natural" is omitted, to
 19 reflect that the parental rights of a nonbiological - i.e., adoptive - parent
 20 can be terminated in the same manner as a biological parent's can.

21 Defined terms: "Child" § 5-3A-01

"Child placement agency" § 5-101

22 "Guardianship" § 5-3A-01

23 "Parent" § 5-3A-01

24 "Person" § 1-101

25 "State" § 1-101

26 5-3A-19. CONSENT.

27 (A) CONTENTS.

28 (1) CONSENT OF A PARENT MAY INCLUDE A WAIVER OF THE RIGHT TO
 29 NOTICE OF:

30 (I) THE FILING OF A PETITION UNDER **THIS SUBTITLE**; AND

31 (II) A HEARING UNDER **THIS SUBTITLE**.

32 (2) CONSENT TO GUARDIANSHIP IS NOT VALID UNLESS THE CONSENT:

33 (I) IS GIVEN AFTER THE BIRTH OF THE CHILD FOR WHOM
 34 GUARDIANSHIP IS SOUGHT;

35 (II) CONTAINS AN EXPRESS NOTICE OF:

1 1. THE RIGHT TO REVOKE CONSENT AT ANY TIME WITHIN 14
2 DAYS AFTER THE PERSON SIGNS THE CONSENT. UNLESS THE REVOCATION IS
3 BARRED UNDER **SUBSECTION (B)(2) OF THIS SECTION**;

4 2. THE SEARCH RIGHTS OF ADOPTEDS AND BIOLOGICAL
5 PARENTS UNDER **§ 5-3A-40 OF THIS SUBTITLE AND SUBTITLES 4B AND 4D OF THIS TITLE**;

[NOTE: If the veto of HB 232 (2004) is overridden, subitem 2 should read "the search rights of adoptees, parents, and siblings ...".]

6 3. THE RIGHT TO FILE A DISCLOSURE VETO UNDER
7 ~~§ 5-3A-40~~ OF THIS ~~SUBTITLE~~; AND

8 4. THE CONSENT IS ACCOMPANIED BY AN AFFIDAVIT OF
9 COUNSEL APPOINTED UNDER **§ 5-3A-07(A) OF THIS SUBTITLE** STATING THAT A
10 PARENT WHO IS A MINOR OR HAS A DISABILITY CONSENTS KNOWINGLY AND
11 VOLUNTARILY.

12 (B) REVOCATION PERIOD.

13 (1) ~~(1)~~ SUBJECT TO **SUBPARAGRAPH (2) OF THIS PARAGRAPH SUBSECTION**, A
14 ~~PARENT PERSON~~ MAY REVOKE CONSENT TO GUARDIANSHIP AT ANY TIME WITHIN 14 DAYS
15 AFTER THE PERSON SIGNS THE CONSENT.

16 (2) ~~(1)~~ A PARENT MAY NOT REVOKE CONSENT FOR GUARDIANSHIP OF
17 ~~THE A~~ CHILD IF, IN THE PRECEDING YEAR, THE PARENT HAS REVOKED CONSENT FOR
18 OR FILED A NOTICE OF OBJECTION TO GUARDIANSHIP OF THE CHILD.

19 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former FL
20 § 5-319(d)(1) and, as it related to guardianship, § 5-322(a)(2).

21 Subsection (a)(2)(i) of this section is derived from former FL § 5-324(1) and
22 revised to preclude valid consent, rather than bar entry of an order.

23 Subsection (a)(2)(ii)1 through 3 of this section is derived from former FL §
24 5-314(a), as it related to guardianship under this subtitle, and revised to
25 incorporate the substance of the referenced former FL § 5-317.

26 Subsection (a)(2)(ii)4 of this section is derived from former FL § 5-314(b),
27 as it related to guardianship under this subtitle, and the substance of
28 former FL § 5-101(h) and revised to apply to disabled, as well as minor,
29 parents.

30 Subsection (b)(1) of this section is derived from former FL § 5-317(e) but
31 revised to substitute a 14-day period of revocation for the former 30-day
32 period.

33 Subsection (b)(2) of this section is new and added to bar repeated
34 thwarting of guardianship.

35 In subsection (a) of this section, the former reference to a "natural" parent
36 is omitted, to reflect that the parental rights of a nonbiological - i.e.,
37 adoptive - parent can be terminated in the same manner as a biological

1 parent's can.

2 As to "minor", *see* **Art. 1, § 24 of the Code.**

3 Defined terms: "Child" § 5-3A-01

4 "Disability" § 5-101

5 "Guardianship" § 5-3A-01

6 "Includes" § 1-101

7 "Including" § 1-101

8 "Parent" § 5-3A-01

9 "Person" § 1-101

10 5-3A-20. GRANT OF GUARDIANSHIP - CONSENSUAL.

11 (A) AUTHORITY.

12 IF ALL CONSENTS FOR GUARDIANSHIP OF A CHILD HAVE BEEN GIVEN IN
13 ACCORDANCE WITH **THIS SUBTITLE**, A COURT MAY ENTER AN ORDER FOR
14 GUARDIANSHIP.

15 (B) NOTICE.

16 (1) WITHIN 5 DAYS AFTER ENTRY OF AN ORDER UNDER **THIS SECTION**, A
17 COURT SHALL NOTIFY EACH PARTY TO THE CASE WHO HAS NOT WAIVED THE RIGHT
18 TO NOTICE.

19 (2) NOTICE UNDER **THIS SUBSECTION** SHALL BE BY ~~FIRST-CLASS~~ **FIRST CLASS** MAIL.

20 (3) NOTICE UNDER **THIS SUBSECTION** SHALL BE SENT TO A PARTY'S
21 LAST ~~KNOWN~~ ADDRESS **KNOWN TO THE COURT**.

22 COMMITTEE NOTE: This section is new and added to set forth the manner of
23 disposing of consensual guardianships.

24 Defined terms: "Child" § 5-3A-01

25 "Guardianship" § 5-3A-01

26 5-3A-21. GRANT OF GUARDIANSHIP - NONCONSENSUAL.

27 A COURT MAY GRANT GUARDIANSHIP OF A CHILD WITHOUT CONSENT
28 OTHERWISE REQUIRED UNDER **THIS SUBTITLE** IF THE COURT FINDS, BY CLEAR AND
29 CONVINCING EVIDENCE, THAT:

30 (1) THE PARENT'S RIGHTS AS TO THE CHILD HAVE BEEN TERMINATED
31 IN ACCORDANCE WITH LAW;

32 (2) THE PARENT HAS A DISABILITY THAT MAKES THE PARENT
33 INCAPABLE OF CONSENTING; OR

34 (3) AFTER A THOROUGH INVESTIGATION BY A CHILD PLACEMENT
35 AGENCY:

1 (I) THE IDENTITIES OF THE CHILD'S PARENTS ARE UNKNOWN;

2 (II) THE CHILD HAS BEEN IN THE CUSTODY OF THE CHILD
3 PLACEMENT AGENCY FOR AT LEAST 60 DAYS DURING WHICH NO ONE HAS CLAIMED
4 TO BE THE CHILD'S PARENT; AND

5 (III) GUARDIANSHIP IS IN THE CHILD'S BEST INTERESTS.

6 COMMITTEE NOTE: Items (1) and (3) of this section are derived from former
7 FL §§ 5-313(a)(1) and (b) and 5-322(d) and the introductory clause of §
8 5-311(a).

9 Item (2) of this section is new.

10 In item (1) of this section, the former word "natural" is omitted, to reflect
11 that the parental rights of a nonbiological - i. e., adoptive - parent can be
12 terminated in the same manner as a biological parent's can.

13 Defined terms: "Child" § 5-3A-01

14 "Child placement agency" § 5-101

15 "Disability" § 5-101

16 "Guardianship" § 5-3A-01

17 "Parent" § 5-3A-01

18 5-3A-22. CONTENTS OF ORDER.

19 IN AN ORDER ENTERED UNDER **THIS SUBTITLE**, A COURT SHALL:

20 (1) DOCUMENT THE RESPONSE BY EACH PARTY TO THE GUARDIANSHIP
21 PETITION; AND

22 (2) THE WAIVER, IF ANY, OF A PARENT TO NOTICE OF FUTURE
23 PROCEEDINGS.

24 COMMITTEE NOTE: Item (1) of this section is new and added to provide a
25 record of the responses.

26 Item (2) of this section is derived from former FL § 5-319(d)(2).

27 Defined terms: "Guardianship" § 5-3A-01

28 "Parent" § 5-3A-01

29 5-3A-23. EFFECT OF **ORDER FOR** GUARDIANSHIP.

30 (A) PARENT-CHILD RELATIONSHIP.

31 AN ORDER FOR GUARDIANSHIP OF AN INDIVIDUAL:

32 (1) EXCEPT AS PROVIDED IN **§ 5-3A-24 OF THIS SUBTITLE, § 4-414 OF THE ESTATES AND**
TRUSTS ARTICLE, AND § 2-123 OF
33 **THE REAL PROPERTY ARTICLE**, TERMINATES A PARENT'S DUTIES, OBLIGATIONS, AND
34 RIGHTS TOWARD THE INDIVIDUAL;

1 (2) ELIMINATES THE NEED FOR NOTICE TO A PARENT AS TO THE FILING
2 OF AN ADOPTION PETITION;

3 (3) ELIMINATES THE NEED FOR FURTHER CONSENT OF A PARENT TO
4 ADOPTION OF THE INDIVIDUAL; AND

5 (4) GRANTS GUARDIANSHIP OF THE INDIVIDUAL TO A CHILD
6 PLACEMENT AGENCY.

7 (B) GUARDIAN.

8 (1) UNLESS A COURT GIVES LEGAL CUSTODY TO ANOTHER PERSON, A
9 CHILD'S GUARDIAN UNDER **THIS SUBTITLE** HAS LEGAL CUSTODY.

10 (2) UNLESS A COURT ORDERS OTHERWISE AND SUBJECT TO REVIEW BY
11 THE COURT, A CHILD'S GUARDIAN MAY MAKE ALL DECISIONS AFFECTING THE
12 CHILD'S EDUCATION, HEALTH, AND WELFARE, INCLUDING CONSENTING TO:

13 (I) ADOPTION OF THE CHILD;

14 (II) APPLICATION BY THE CHILD FOR A DRIVER'S LICENSE;

15 (III) ENLISTMENT BY THE CHILD IN THE ARMED FORCES;

16 (IV) MARRIAGE OF THE CHILD; AND

17 (V) MEDICAL, PSYCHIATRIC, OR SURGICAL TREATMENT.

18 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
19 5-317(f).

20 Subsection (b) of this section is new and added to state expressly the
21 powers and duties of a guardian under this subtitle.

22 In the introductory language of subsection (a) of this section, the word
23 "order" is substituted for the former more archaic "decree".

In subsection (a)(1) and (2) of this section, the former word "natural" is omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive - parent can be terminated in the same manner as a biological parent's can.

24 The introductory exception in subsection (a)(1) of this section, "[e]xcept as
25 provided ...", is substituted for the former exception "this section" - i.e.,
26 former FL § 5-308 - to reflect the recodification of former § 5-308(d).

27 ~~In subsection (a)(1) and (2) of this section, the former word "natural" is~~
28 ~~omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive~~
29 ~~-parent can be terminated in the same manner as a biological parent's~~
30 ~~can.~~

31 Defined terms: "Child" § 5-3A-01

32 "Child placement agency" § 5-101

33 "Guardianship" § 5-3A-01

34 "Includes" § 1-101

35 "Including" § 1-101

1 "Parent" § 5-3A-01

2 5-3A-24. GUARDIANSHIP REVIEW.

3 (A) REPORT.

4 (1) A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT WITH
5 A COURT WITH JURISDICTION OVER A CHILD WHENEVER:

6 (I) THE CHILD PLACEMENT AGENCY FAILS TO PLACE THE CHILD
7 FOR ADOPTION WITH A ~~PRE-ADOPTIVE~~ PREADOPTIVE PARENT, AS DEFINED IN § 3-823(I)(1) OF THE
8 COURTS ARTICLE:

9 1. WITHIN 270 DAYS AFTER BEING AWARDED
10 GUARDIANSHIP; OR

11 2. WITHIN 180 DAYS AFTER PERMANENTLY REMOVING THE
12 CHILD FROM ANOTHER PLACEMENT; OR

13 (II) A COURT DOES NOT ENTER A FINAL ORDER OF ADOPTION
14 WITHIN 2 YEARS AFTER THE PLACEMENT.

15 (2) A REPORT UNDER **THIS SUBSECTION** SHALL STATE EACH REASON
16 FOR THE DELAY IN PLACEMENT OR ADOPTION.

17 (B) NOTICE.

18 (1) WHENEVER A CHILD PLACEMENT AGENCY FILES A REPORT UNDER
19 **THIS SECTION**, THE CHILD PLACEMENT AGENCY SHALL MAIL NOTICE OF THE
20 CHILD'S STATUS:

21 (I) TO EACH OF THE CHILD'S LIVING PARENTS WHO HAS NOT
22 WAIVED THE RIGHT TO NOTICE; AND

23 (II) IF A COURT APPOINTED COUNSEL FOR THE CHILD UNDER THIS
24 SUBTITLE, TO THE CHILD'S LAST ATTORNEY OF RECORD.

25 (2) A WAIVER OF RIGHTS UNDER **THIS SUBSECTION** IS NOT VALID
26 UNLESS THE WAIVER APPEARS EXPRESSLY IN:

27 (I) THE PARENT'S CONSENT TO GUARDIANSHIP; AND

28 (II) THE GUARDIANSHIP ORDER.

29 (C) HEARING.

30 (1) WHENEVER A COURT RECEIVES A REPORT UNDER **THIS SECTION**,
31 THE COURT SHALL HOLD A HEARING TO:

32 (I) REVIEW THE PROGRESS THAT THE CHILD PLACEMENT AGENCY
33 HAS MADE TOWARD ADOPTION OF THE CHILD; AND

1 (II) TAKE ALL ACTIONS THAT THE COURT CONSIDERS **TO BE** IN THE
2 CHILD'S BEST INTERESTS.

3 (2) EACH YEAR AFTER A HEARING UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION UNTIL THE COURT'S JURISDICTION TERMINATES, THE COURT SHALL
5 HOLD ANOTHER REVIEW HEARING.

6 COMMITTEE NOTE: This section is new language derived from former FL §
7 5-319.

8 In subsection (a)(1)(i)1 of this section, reference to "270 days" is substituted
9 for the former 6-month period, to extend the period and to allow easier
10 calculation of the period. Similarly, in subsection (a)(1)(i)2 of this section, a
11 reference to "days" is substituted for the former reference to a 2-month
12 period, although the number of days is increased to 180.

13 Defined terms: "Child" § 5-3A-01

14 "Child placement agency" § 5-101

15 "Guardianship" § 5-3A-01

16 "Parent" § 5-3A-01

17 5-3A-25. TERMINATION OF GUARDIANSHIP.

18 (A) AGE LIMIT. ~~UNLESS~~

UNLESS TERMINATED SOONER, A COURT RETAINS
19 JURISDICTION OVER A CHILD UNTIL THE CHILD ATTAINS 18 YEARS OF AGE.

20 (B) ADOPTION ORDER. ~~A~~

A FINAL ORDER FOR ADOPTION OF A CHILD
21 TERMINATES THE CHILD'S GUARDIANSHIP CASE.

22 COMMITTEE NOTE: This section is derived from former FL § 5-319(i).

23 Defined terms: "Child" § 5-3A-01

24 "Guardianship" § 5-3A-01

25 5-3A-26. RESERVED.

26 5-3A-27. RESERVED.

27 PART III. ADOPTION.

28 5-3A-28. PETITIONER.

29 (A) AGE.

30 ~~SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AN~~ **ANY** ADULT MAY PETITION
31 A COURT FOR AN ADOPTION UNDER **THIS SUBTITLE**.

32 (B) MINIMUM PERIOD OF PLACEMENT.

33 A PETITIONER MAY PETITION FOR ADOPTION OF A CHILD 180 DAYS OR MORE
34 AFTER A CHILD PLACEMENT AGENCY PLACES THE CHILD WITH THE PETITIONER.

1 (C) MARITAL STATUS.

2 (1) IF A PETITIONER UNDER **THIS SECTION** IS MARRIED, THE
3 PETITIONER'S SPOUSE SHALL JOIN IN THE PETITION UNLESS THE SPOUSE:

4 (I) IS
5 SEPARATED FROM THE PETITIONER UNDER A CIRCUMSTANCE THAT GIVES THE
6 PETITIONER A GROUND FOR ANNULMENT OR DIVORCE; OR

(II) IS NOT COMPETENT TO JOIN IN THE PETITION.

6 (2) IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY
7 OF A FINAL ORDER, THE PETITIONER SHALL AMEND THE PETITION ACCORDINGLY.

8 COMMITTEE NOTE: Subsection (a) of this section is derived from FL §
9 5-309(a).

10 Subsection (b) of this section is new.

11 Subsection (c) of this section is derived from former FL § 5-315(a)(2) and
12 (b).

13 In subsection (b) of this section, the former word "decree" is deleted.

14 As to "adult", see **Art. 1, § 24 of the Code**.

15 Defined terms: "Child" § 5-3A-01

16 "Child placement agency" § 5-101

17 5-3A-29. NOTICE OF FILING.

18 A PETITIONER FOR ADOPTION UNDER **THIS SUBTITLE** SHALL GIVE NOTICE OF
19 THE FILING OF AN ADOPTION PETITION TO EACH PERSON WHOSE CONSENT IS
20 REQUIRED.

21 COMMITTEE NOTE: This section is derived from former FL § 5-322(a)(1)(i).

22 Defined term: "Person" § 1-101

23 5-3A-30. REPORT.

24 BEFORE A COURT ENTERS AN ORDER FOR ADOPTION OF A CHILD UNDER
25 **THIS SUBTITLE**, A CHILD PLACEMENT AGENCY SHALL FILE A WRITTEN REPORT ON:

26 (1) THE SUITABILITY OF THE PETITIONER TO ADOPT THE CHILD; AND

27 (2) THE RELATIONSHIP BETWEEN THE PETITIONER AND CHILD.

28 COMMITTEE NOTE: This section is new and added to reflect requirements
29 under State Department regulations, in **COMAR 07.05.03.15**.

30 Defined terms: "Child" § 5-3A-01

31 "Child placement agency" § 5-101

1 5-3A-31. ~~TIME LIMITS.~~

2 ~~A COURT MAY NOT ENTER A FINAL ORDER FOR ADOPTION UNDER THIS~~
3 ~~SUBTITLE UNTIL 30 DAYS AFTER ENTRY OF A GUARDIANSHIP ORDER UNDER THIS~~
4 ~~SUBTITLE.~~

5 COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

6 Defined term: "~~Guardianship~~" § 5-3A-01

7 ~~5-3A-32. HEARING ON ADOPTION PETITION.~~

8 A COURT SHALL HOLD A HEARING BEFORE ENTERING A FINAL ORDER FOR
9 ADOPTION UNDER **THIS SUBTITLE**.

10 COMMITTEE NOTE: This section is derived from former FL § 5-324.1.

11 The word "order" is substituted for the former more archaic "decree".

5-3A-32. TIME LIMITS.

A COURT MAY NOT ENTER A FINAL ORDER FOR ADOPTION UNDER **THIS SUBTITLE** UNTIL 30 DAYS AFTER
ENTRY OF A GUARDIANSHIP ORDER UNDER **THIS SUBTITLE**.

COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

Defined term: "Guardianship" § 5-3A-01

12 5-3A-33. AUTHORITY TO GRANT ADOPTION.

13 (A) CONSENT.

14 A COURT MAY ENTER AN ORDER FOR A CHILD'S ADOPTION UNDER THIS
15 SUBTITLE ONLY IF:

16 (1) THE CHILD PLACEMENT AGENCY CONSENTS; AND

17 (2) FOR A CHILD WHO IS AT LEAST 10 YEARS ~~OF AGE~~ **OLD**, THE CHILD
18 CONSENTS.

19 (B) WITHHOLDING CONSENT.

20 A CHILD PLACEMENT AGENCY MAY NOT WITHHOLD CONSENT FOR THE SOLE
21 REASON THAT THE RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF A
22 PROSPECTIVE ADOPTIVE PARENT DIFFERS FROM THAT OF THE CHILD OR PARENT.

23 (C) REVOCATION.

24 (1) A CHILD PLACEMENT AGENCY MAY REVOKE CONSENT AT ANY TIME
25 WITHIN THE LATER OF:

26 (I) 14 DAYS AFTER THE CHILD PLACEMENT AGENCY SIGNS THE
27 CONSENT; OR

28 (II) 14 DAYS AFTER THE ~~FILING OF THE~~ ADOPTION PETITION **IS FILED**.

29 (2) A CHILD WHO IS AT LEAST 10 **YEARS OLD** MAY REVOKE CONSENT AT ANY TIME
30 BEFORE ENTRY OF A **COURT ENTERS A FINAL ORDER OF ADOPTION UNDER THIS SUBTITLE**.

31 COMMITTEE NOTE: This section is derived from former FL § 5-311(b) **and (c)(1)**.

In subsections (a)(1) of this section, reference to a "guardian" of an individual "under the age of 18 years" is substituted for the former reference to the "executive head" of the a child placement agency "that has been awarded guardianship" is deleted, for brevity and consistency with new § 5-328(a). Similarly, in subsection (b) of this section, the former reference to an agency's "executive head" is deleted.

Subsection (b) of this section is revised to include "color" and "national origin" but delete "where to do so would be contrary to the best interests of the child" to conform to the federal law.

In subsection (b) (c)(1) of this section, references to a 14-day period are substituted for the former 30-day period.

Defined terms: "Child" § 5-3A-01

"Child placement agency" § 5-101

"Parent" § 5-3A-01

5-3A-34. FINAL ORDER FOR ADOPTION.

(A) EFFECT ON CHILD-PARENT RELATIONSHIP.

(1) **THIS SUBSECTION** DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

(2) EXCEPT AS OTHERWISE PROVIDED IN **§ 2-123 OF THE REAL PROPERTY ARTICLE**, AFTER A COURT ENTERS AN ORDER FOR ADOPTION UNDER THIS SUBTITLE:

(I) THE ADOPTEE:

1. IS THE CHILD OF THE ADOPTIVE PARENT FOR ALL INTENTS AND PURPOSES; AND

2. IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE ADOPTIVE PARENT;

(II) EACH OF THE ADOPTEE'S LIVING PARENTS IS:

1. RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS TO THE ADOPTEE; AND

2. DIVESTED OF ALL PARENTAL RIGHTS AS TO THE ADOPTEE; AND

(III) THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

(B) EFFECT ON PENDING CASES.

1 AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS SUBTITLE** TERMINATES ALL
2 PENDING GUARDIANSHIP CASES AS TO THE ADOPTEE.

3 (C) NOTICE OF ORDER.

4 (1) WHEN A COURT ENTERS AN ORDER FOR A CHILD'S ADOPTION UNDER **THIS SUBTITLE**, THE
COURT SHALL SEND NOTICE ~~WHEN THE COURT ENTERS A FINAL ORDER FOR~~
5 ~~A CHILD'S ADOPTION UNDER THIS SUBTITLE TO:~~

6 (1) EACH COURT THAT HAS A PENDING GUARDIANSHIP CASE AS TO THE
7 ADOPTEE;

8 (2) EACH OF THE CHILD'S LIVING, FORMER PARENTS WHO HAS NOT
9 WAIVED THE RIGHT TO NOTICE; AND

10 (3) THE FORMER GUARDIAN OF THE CHILD.

(2) SERVICE ON A PARENT UNDER **THIS SUBSECTION** SHALL BE AT THE PARENT'S LAST
ADDRESS KNOWN TO THE JUVENILE COURT.

11 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
12 5-308(a) and (b).

13 Subsections (b) and (c) of this section are new and added to state the effect
14 on pending cases and to provide for notice of the order.

15 The introductory exception in subsection (a)(2) of this section, "[e]xcept as
16 provided in **§ 2-123 of the Real Property Article**", is substituted for the
17 former exception "this section" - i.e., former FL § 5-308 - to reflect the
18 recodification of part of former § 5-308(d). The balance is covered by **new**
19 **subsection (a)(2)(iii)**.

20 Defined terms: "Adoptive parent" § 5-101

21 "Child" § 5-3A-01

22 "Guardianship" § 5-3A-01

23 "Parent" § 5-3A-01

24 5-3A-35. PETITION TO INVALIDATE.

25 IF A PETITION TO INVALIDATE AN ~~FINAL~~ ORDER FOR ADOPTION UNDER THIS
26 SUBTITLE ON THE BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS FILED
27 MORE THAN 1 YEAR AFTER ENTRY OF THE ORDER, A COURT SHALL DISMISS THE
28 PETITION.

29 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
30 revised to require dismissal rather than barring receipt, as more consistent
31 with court practices.

32 The word "order" is substituted for the former more archaic "decree".

1 5-3A-36. RESERVED.

2 5-3A-37. RESERVED.

PART IV. ACCESS TO ADOPTION RECORDS.

5-3A-38. MEDICAL AND PSYCHOLOGICAL INFORMATION.

(A) COMPILATION OF ADOPTEE'S RECORDS OR HISTORY.

A CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO COMPILE AND MAKE AVAILABLE TO A PROSPECTIVE ADOPTIVE PARENT:

(1) ALL OF THE PROSPECTIVE ADOPTEE'S MEDICAL AND PSYCHIATRIC RECORDS THAT THE AGENCY HAS; OR

(2) A COMPREHENSIVE MEDICAL AND PSYCHIATRIC HISTORY OF THE PROSPECTIVE ADOPTEE.

(B) COMPILATION OF PARENTAL HISTORY.

ON REQUEST OF A PROSPECTIVE ADOPTIVE PARENT, A CHILD PLACEMENT AGENCY SHALL MAKE REASONABLE EFFORTS TO COMPILE A PERTINENT MEDICAL AND PSYCHIATRIC HISTORY OF EACH OF THE PROSPECTIVE ADOPTEE'S PARENTS, IF AVAILABLE TO THE AGENCY, AND TO MAKE THE HISTORY AVAILABLE TO THE PROSPECTIVE ADOPTIVE PARENT.

(C) LATER RECEIVED INFORMATION.

IF, AFTER ADOPTION, A CHILD PLACEMENT AGENCY RECEIVES MEDICAL OR PSYCHOLOGICAL INFORMATION ABOUT THE ADOPTEE OR ADOPTEE'S FORMER PARENT, THE AGENCY SHALL MAKE REASONABLE EFFORTS TO MAKE THE INFORMATION AVAILABLE TO THE ADOPTIVE PARENT.

(D) EXCLUSION OF IDENTIFYING INFORMATION.

A MEDICAL OR PSYCHIATRIC HISTORY COMPILED UNDER **THIS SECTION** MAY NOT CONTAIN IDENTIFYING INFORMATION AS TO A PARENT.

COMMITTEE NOTE: Subsection (a) of this section is new and added to provide for an agency to compile information on a prospective adoptee available to the agency, including any dental records.

Subsections (b) and (d) of this section are derived from former FL § 5-328.

Subsection (c) of this section is new and added to ensure transmittal of later discovered information about an adoptee and, even without a request under subsection (b), a former parent.

In subsections (b) and (c) of this section, the references to "psychiatric" records are added to ensure inclusion of such information as available, without identifying information.

In subsection (b) of this section, the reference to a "request" is added to obviate the need to compile information that a prospective parent does not want.

Also in subsection (b) of this section, "reasonable efforts" and "if available" are added to reflect that an agency may be unable to compile all of the information or contact a parent after an adoption.

Also in subsection (b) of this section, the defined term "child placement agency" is substituted for the former reference to a "person authorized to place a minor child for adoption", for consistency with the revised scope of this subtitle.

In subsection (d) of this section, the defined term "identifying information" is substituted for the former, limited reference to "identity".

Also in subsection (d) of this section, the former word "natural" is omitted, to reflect that the parental rights of a nonbiological - i.e., adoptive - parent can be terminated in the same manner as a biological parent's can and identifying information about such parent should be protected as well.

Defined terms: "Adoptive parent" § 5-101

"Child placement agency" § 5-101

"Identifying information" § 5-3A-01

"Parent" § 5-3A-01

5-3A-39. COURT AND AGENCY RECORDS.

(A) ACCESS.

(1) (I) ON REQUEST OF AN ADOPTEE OR ADOPTIVE PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF A NEED, A CHILD PLACEMENT AGENCY SHALL PROVIDE INFORMATION, OTHER THAN IDENTIFYING INFORMATION, IN ITS ADOPTION RECORD ON THE ADOPTEE.

(II) IF A CHILD PLACEMENT AGENCY DENIES A REQUEST UNDER **THIS PARAGRAPH**, THEN ON PETITION OF AN ADOPTEE OR ADOPTIVE PARENT AND WITHOUT A SHOWING OF NEED, A COURT SHALL ORDER ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH **SUBSECTION (B) OF THIS SECTION**, THE AGENCY'S RECORD ON THE ADOPTEE.

(2) ON PETITION OF AN ADOPTEE OR ADOPTIVE PARENT OF AN ADOPTEE AND WITHOUT A SHOWING OF NEED, A COURT SHALL ORDER ACCESS FOR THE PETITIONER TO INSPECT, IN ACCORDANCE WITH **SUBSECTION (B) OF THIS SECTION**, THE COURT'S RECORD ON THE ADOPTEE.

(B) PROTECTION OF IDENTIFYING INFORMATION.

A COURT MAY NOT ORDER OPENED FOR INSPECTION UNDER **THIS SECTION** ANY PART OF A RECORD THAT CONTAINS IDENTIFYING INFORMATION AS TO A FORMER PARENT.

COMMITTEE NOTE: This section is derived from former FL § 5-329(a) and (b).

In subsection (a)(1) and (2) of this section, the references to an "adoptive parent" are substituted for the former references to a "birth parent", to foreclose an individual whose parental rights have been terminated from accessing information while allowing access to an adoptive parent.

Similarly, in subsection (b) of this section, reference to a "former" parent is substituted for the former reference to a "birth" parent, to ensure confidentiality for all individuals who have at any time previously been a "parent".

In subsection (a)(1) of this section, the newly defined term "local department" is substituted for the former references to a "child placement agency", for brevity and consistency with the revised scope of this proposed subtitle.

Defined terms: "Adoptive parent" § 5-101

"Child placement agency" § 5-101

"Identifying information" § 5-3A-01

"Parent" § 5-3A-01

5-3A-40. VITAL RECORDS.

(A) DEFINITIONS.

(1) IN **THIS SECTION** THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.

(3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A COURT ENTERS AN ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

(C) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT BAR:

(1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH, CONTACT, AND REUNION SERVICES UNDER SUBTITLE 4B OF THIS TITLE; OR

(2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM OBTAINING A COPY OF A RECORD UNDER **§ 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS TITLE.**

(D) APPLICATION FOR RECORD.

(1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH, IF ANY; OR

(III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE.**

(2) A BIOLOGICAL PARENT OF AN ADOPTEE WHO HAS ATTAINED 21 YEARS MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) THE NEW CERTIFICATE OF BIRTH, IF ANY, SUBSTITUTED, UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE,** FOR THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH; OR

(IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE.**

(3) EACH APPLICANT UNDER **THIS SUBSECTION** SHALL:

(I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT INFORMATION THAT THE SECRETARY REQUIRES; AND

(II) PAY THE FEE REQUIRED UNDER **TITLE 4, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE** FOR A COPY OF A RECORD.

(E) DISCLOSURE VETO.

(1) A BIOLOGICAL PARENT MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE UNDER **THIS SECTION;**

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(2) AFTER AN ADOPTEE ATTAINS 21 YEARS OF AGE, THE ADOPTEE MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE UNDER **THIS SECTION;**

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO OR CANCELLATION UNDER **THIS SECTION,** THE DIRECTOR SHALL FORWARD A COPY TO THE SECRETARY.

(F) DUTIES OF SECRETARY.

(1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT **THIS SECTION.**

(2) SUBJECT TO **PARAGRAPHS (3) AND (4) OF THIS SUBSECTION,** THE SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF **THIS SECTION** A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND THAT THE SECRETARY HAS ON FILE.

(3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

(I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION;** AND

(II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION.**

(4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO THE BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION.**

(5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER **THIS SECTION** NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES AVAILABLE UNDER THIS TITLE.

COMMITTEE NOTE: Subsection (a) of this section is new and added to allow concise reference to the Director and Secretary.
Subsections (b) through (f) of this section are derived from former FL §§ 5-3A-01 through 5-3A-07.
In subsection (e)(3) of this section, a duty to forward a cancellation is added, for completeness.
Defined terms: "Adoptive parent" § 5-101
"Parent" § 5-3A-01
"State Department" § 5-101

3 PART ~~IV~~ V. PROHIBITED ACTS.

4 ~~5-3A-38~~ 5-3A-41. PROHIBITED PAYMENTS.

5 (A) PROHIBITED ACT.

6 EXCEPT AS OTHERWISE PROVIDED BY LAW, A GOVERNMENTAL UNIT OR A
7 PERSON MAY NOT CHARGE OR RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE
8 ADOPTIVE PARENT, ANY COMPENSATION FOR A SERVICE IN CONNECTION WITH:

9 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
10 FAMILY, ~~AS DEFINED IN § 3-823(1)(1) OF THE COURTS ARTICLE~~; OR

11 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

12 (B) CONSTRUCTION OF SECTION.

13 (1) IN **THIS SUBSECTION**, "ADMINISTRATION" MEANS THE SOCIAL
14 SERVICES ADMINISTRATION OF THE STATE DEPARTMENT.

15 (2) **THIS SECTION** DOES NOT:

16 (I) PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF A
17 CUSTOMARY AND REASONABLE CHARGE OR FEE FOR HOSPITAL, LEGAL, OR MEDICAL
18 SERVICES; OR

19 (II) PREVENT THE ADMINISTRATION, OR A PERSON THAT THE
20 ADMINISTRATION LICENSES OR SUPERVISES, FROM RECEIVING AND ACCEPTING
21 REASONABLE REIMBURSEMENT FOR COSTS OF AN ADOPTIVE SERVICE IN
22 CONNECTION WITH ADOPTION, IF:

23 1. THE REIMBURSEMENT IS IN ACCORDANCE WITH
24 STANDARDS SET BY REGULATION OF THE ADMINISTRATION; AND

25 2. THE ABILITY TO PROVIDE THIS REIMBURSEMENT DOES
26 NOT AFFECT:

27 A. THE ACCEPTABILITY OF ANY INDIVIDUAL FOR ADOPTIVE
28 SERVICES; OR

29 B. THE CHOICE OF THE MOST SUITABLE PROSPECTIVE
30 ADOPTIVE PARENT.

31 (C) DUTY OF STATE'S ATTORNEY.

32 EACH STATE'S ATTORNEY SHALL ENFORCE **THIS SECTION**.

1 (D) PENALTIES.

2 A PERSON WHO VIOLATES ANY PROVISION OF **THIS SECTION** IS GUILTY OF A
3 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
4 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

5 COMMITTEE NOTE: Subsections (a), (b)(2), (c), and (d) of this section are
6 derived from former FL § 5-327(a), (b), (d), and (e) and the substance of §
7 5-301(j), which defined "placement for adoption".

8 Subsection (b)(1) of this section is new and added to allow concise reference
9 to the Administration.

10 In subsections (a) and (b)(2)(ii)2B of this section, references to a
11 prospective "adoptive parent" are substituted for the former references to
12 the "individual who is adopting the individual" and the prospective
13 adoptive "family or individual for a child who is to be adopted", for brevity
14 and consistency with other references throughout this subtitle.

15 In subsection (a) of this section, the phrase "by law" is added to delineate
16 the scope of the exception.

17 Also in subsection (a) of this section, the reference to a "governmental unit
18 or a person" is substituted for the former references to "an agency,
19 institution, or individual", to state expressly that governmental units are
20 covered - a private "agency, institution, or individual" being within the
21 defined term "person".

22 In subsection (b)(2) of this section, however, "person" is substituted for the
23 former reference to an "agency or institution", as the Administration does
24 not license or supervise another governmental unit for adoption purposes.

25 In subsection (b)(2)(i) of this section, the former word "rules" is omitted in
26 light of the definition of "regulation" in **current SG § 10-101** and the usage of
27 "regulation" for Executive Branch units and "rule" for Judicial Branch
28 units.

29 In subsection (c) of this section, a duty to "enforce" is substituted for the
30 former duty to "prosecute any violation", as more consistent with
31 prosecutorial discretion.

32 In subsection (d) of this section, reference to a violation of "any provision"
33 is added to clarify that a prosecutor need not show violation of every
34 provision.

35 Defined terms: "Adoptive parent" § 5-101

36 "Person" § 1-101

37 "Parent" § 5-3A-01

38 "State Department" § 5-101

1 SUBTITLE 3B. INDEPENDENT ADOPTION.

2 PART I. GENERAL PROVISIONS.

3 5-3B-01. DEFINITIONS.

4 (A) IN GENERAL.

5 IN **THIS SUBTITLE** THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

6 COMMITTEE NOTE: This subsection formerly was FL § 5-301(a). Only a
7 stylistic change is made.

8 (B) IDENTIFYING INFORMATION.

9 "IDENTIFYING INFORMATION" MEANS INFORMATION THAT REVEALS THE
10 IDENTITY OR LOCATION OF AN INDIVIDUAL.

11 COMMITTEE NOTE: This subsection is derived from former FL § 5-301(i) and
12 restated in positive, rather than negative, terms, for consistency with
13 comparable provisions such as current FL § 5-701(i).

14 (C) PARENT.

15 (1) "PARENT" MEANS AN INDIVIDUAL WHO, **AT** ANY TIME BEFORE A COURT
16 ENTERS A FINAL ORDER FOR ADOPTION UNDER **THIS SUBTITLE**:

17 (I) MEETS A CRITERION IN **§ 5-3B-06(A) OF THIS SUBTITLE**; OR

18 (II) IS THE MOTHER.

19 (2) "PARENT" DOES NOT INCLUDE AN INDIVIDUAL WHOM A COURT HAS
20 ADJUDICATED NOT TO BE A FATHER OR MOTHER.

21 COMMITTEE NOTE: This subsection is new and added to allow concise
22 reference to an individual who is a party to a case under this subtitle due
23 to a parental relationship.

24 Defined terms: "Includes" § 1-101

25 "Including" § 1-101

26 (D) PROSPECTIVE ADOPTEE.

27 "PROSPECTIVE ADOPTEE" MEANS AN INDIVIDUAL WHO IS THE SUBJECT OF A
28 PETITION FOR ADOPTION UNDER **THIS SUBTITLE**.

29 COMMITTEE NOTE: This subsection is new and added to allow concise and
30 consistent reference to an individual subject to an adoption petition under
31 this subtitle.

1 GENERAL COMMITTEE NOTE: In addition to the definitions set forth in **new**
2 **§ 5-3B-01**, definitions in §§ 1-101 and 5-101 of this article apply to this
3 subtitle.

4 5-3B-02. SCOPE OF SUBTITLE; EFFECT.

5 (A) APPLICATION.

6 **THIS SUBTITLE** APPLIES ONLY TO AN ADOPTION THAT IS ARRANGED OTHER
7 THAN BY A CHILD PLACEMENT AGENCY.

8 (B) EFFECT.

9 EXCEPT AS EXPRESSLY PROVIDED IN **THIS SUBTITLE**, IT DOES NOT AFFECT AN
10 ADOPTION:

11 (1) FOR WHICH A COURT ENTERED ~~FINAL JUDGMENT~~ **AN ORDER** ON OR BEFORE
12 ~~MAY 31, 1947~~ **SEPTEMBER 30, 2005**; OR

13 (2) PENDING ON ~~JUNE 1, 1947~~ **OCTOBER 1, 2005**.

14 COMMITTEE NOTE: Subsection (a) of this section is new and added to make
15 clear the scope of this new subtitle.

16 Subsection (b) of this section is ~~derived from~~ **is substituted for** former FL § 5-302, **which stated the effect of the former FL**
provisions and became obsolete with the enactment of this subtitle.

17 Defined term: "Child placement agency" § 5-101

18 5-3B-03. STATEMENT OF FINDINGS; PURPOSES.

19 (A) STATEMENT OF FINDINGS.

20 THE GENERAL ASSEMBLY FINDS THAT THE POLICIES AND PROCEDURES OF
21 **THIS SUBTITLE** ARE DESIRABLE AND SOCIALLY NECESSARY.

22 (B) PURPOSES.

23 THE PURPOSES OF **THIS SUBTITLE** ARE TO:

24 (1) TIMELY PROVIDE PERMANENT AND SAFE HOMES FOR CHILDREN
25 CONSISTENT WITH THEIR BEST INTERESTS;

26 (2) PROTECT CHILDREN FROM UNNECESSARY SEPARATION FROM
27 THEIR PARENTS;

28 (3) ENSURE ADOPTION ONLY INTO FAMILIES FIT FOR THE
29 RESPONSIBILITY;

30 (4) PROTECT PARENTS FROM MAKING HURRIED OR ILL-CONSIDERED
31 AGREEMENTS TO TERMINATE THEIR PARENTAL RIGHTS;

1 (5) PROTECT PROSPECTIVE ADOPTIVE PARENTS BY GIVING THEM
2 INFORMATION ABOUT PROSPECTIVE ADOPTees AND THEIR BACKGROUNDS; AND

3 (6) PROTECT ADOPTIVE PARENTS FROM FUTURE DISTURBANCES OF
4 THEIR RELATIONSHIPS WITH ADOPTees BY FORMER PARENTS.

5 COMMITTEE NOTE: This section is derived from former FL § 5-303.

6 In subsection (a) of this section, the former clause "that concern adoption"
7 is deleted from this subtitle as surplusage.

8 In subsection (b)(1) of this section, reference to "timely" provision of
9 "permanent and safe homes ... consistent with [the children's] best
10 interests" is substituted for the former reference to "stable homes that
11 protect ... safety and health", to emphasize the need for prompt resolution
12 of a case in accordance with the "best interests" standard applicable under,
13 e. g., former FL §§ 5-311(b)(2), 5-313(a), (c), and (d)(1) and (3), 5-317(g)(1),
14 5-319(f)(1) and (2) and (g)(1), and 5-323(a)(2).

15 In subsection (b)(2) and (4) of this section, the former word "natural" is
16 omitted, to reflect that the parental rights of a nonbiological - i. e.,
17 adoptive - parent can be terminated in the same manner as a biological
18 parent's can. Similarly, in subsection (b)(6) of this section, the word
19 "former" is substituted for "natural", to encompass all individuals who
20 have at any time previously been a "parent".

In subsection (b)(3) of this section, reference to "ensur[ing] adoption only into families" is substituted for the former reference to "permit[ting] adoption only by individuals", to reflect that adoption is not only by a petitioner but into the petitioner's family, which could be one or more individuals.

In subsection (b)(5) of this section, the word "prospective" is added to modify "adoptive parents", to reflect that information is provided before completion of an adoption.

21 Defined terms: "Adoptive parent" § 5-101

22 "Parent" § 5-3B-01

23 "Prospective adoptee" § 5-3B-01

24 5-3B-04. RELATIONSHIP WITH **TITLE 5, SUBTITLE 5.**

25 **THIS SUBTITLE** IS RELATED TO AN SHOULD BE READ IN RELATION TO **SUBTITLE**
26 **5 OF THIS TITLE.**

27 COMMITTEE NOTE: This section formerly was FL § 5-304.

28 No change is made.

29 5-3B-05. FOREIGN ORDERS.

30 (A) ~~FINAL~~ ORDER OF ANOTHER STATE.

31 IN ACCORDANCE WITH THE UNITED STATES CONSTITUTION, THIS STATE SHALL
32 ACCORD FULL FAITH AND CREDIT TO:

33 (1) ~~AN FINAL~~ ORDER OF ANOTHER STATE AS TO ADOPTION OR
34 GUARDIANSHIP IN COMPLIANCE WITH THE OTHER STATE'S LAWS; OR

35 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
36 OTHER STATE'S LAWS.

1 (B) OTHER FOREIGN ORDERS.

2 AS TO A JURISDICTION OTHER THAN A STATE:

3 (1) ~~AN FINAL ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN~~
4 COMPLIANCE WITH THE JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL
5 EFFECT AS ~~AN FINAL ORDER FOR ADOPTION OR GUARDIANSHIP ENTERED IN THIS~~
6 STATE; AND

7 (2) TERMINATION OF PARENTAL RIGHTS IN COMPLIANCE WITH THE
8 JURISDICTION'S LAWS SHALL HAVE THE SAME LEGAL EFFECT AS TERMINATION OF
9 PARENTAL RIGHTS IN THIS STATE.

10 (C) CONSTRUCTION.

11 **THIS SECTION** MAY NOT BE CONSTRUED TO REQUIRE AN INDIVIDUAL TO
12 PETITION A COURT IN THIS STATE FOR ADOPTION OF AN ADOPTEE IF:

13 (1) THE INDIVIDUAL ADOPTED THE ADOPTEE IN COMPLIANCE WITH
14 THE LAWS OF A JURISDICTION OTHER THAN A STATE; AND

15 (2) THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
16 VERIFIES THE VALIDITY OF THAT ADOPTION BY GRANTING, UNDER THE FEDERAL
17 IMMIGRATION AND NATIONALITY ACT, AN IR-3 VISA FOR THE ADOPTEE.

18 COMMITTEE NOTE: Subsections (a)(1) and (b)(1) of this section are derived
19 from former FL § 5-326 but bifurcated to reflect that the full faith and
20 credit clause is applicable to "states" as provided in "the United States Constitution". Accordingly, in subsections (a) and (b)
21 of this section, respectively, the defined term "state" and the reference to a
22 "jurisdiction other than a state" are substituted for the former term
23 "jurisdiction". Subsections (a)(1) and (b)(1) of this section are revised to cover orders for "guardianship", as well.

24 Subsections (a)(2) and (b)(2) of this section are added to provide expressly
25 for recognition of foreign orders relating to termination of parental rights.

26 Subsection (c) of this section is derived from former FL § 5-313.1.

27 In subsections (a)(1) and (b)(1) of this section, the references to "compliance with
28 the ... laws" is ~~is~~ **are** added to state expressly that an order being recognized must
29 be a lawful order.

30 Also in subsections (a)(1) and (b)(1) of this section, the word "order" is
31 substituted for the former, more archaic "decree".

32 In subsection (c)(2) of this section, the reference to the "Citizenship and
33 Immigration Services" is substituted for the ~~former~~, obsolete reference to the
34 "Immigration and Naturalization Service".

35 Defined term: "State" § 1-101

1 5-3B-06. PATERNITY.

[NOTE – Remember when decision is made on § 5-306 in light of *In re Thomas H.* (COA: 5/10/04).]

2 (A) PRESUMPTION.

3 UNLESS A COURT EXCLUDES A MAN AS THE FATHER OF A CHILD, A MAN IS THE
4 FATHER IF:

5 (1) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
6 THE CHILD'S CONCEPTION;

7 (2) THE MAN WAS MARRIED TO THE CHILD'S MOTHER AT THE TIME OF
8 THE CHILD'S BIRTH;

9 (3) THE MAN IS NAMED AS THE FATHER ON THE CHILD'S BIRTH
10 CERTIFICATE AND HAS NOT SIGNED A DENIAL OF PATERNITY;

11 (4) THE CHILD'S MOTHER HAS NAMED THE MAN AS THE CHILD'S FATHER
12 AND THE MAN HAS NOT SIGNED A DENIAL OF PATERNITY;

13 (5) THE MAN HAS BEEN ADJUDICATED TO BE THE CHILD'S FATHER;

14 (6) THE MAN HAS ACKNOWLEDGED HIMSELF, ORALLY OR IN WRITING,
15 TO BE THE CHILD'S FATHER AND THE MOTHER AGREES; OR

16 (7) ON THE BASIS OF GENETIC TESTING, THE MAN IS INDICATED TO BE
17 THE CHILD'S BIOLOGICAL FATHER.

18 (B) NOTICE AND HEARING ON PATERNITY CLAIM.

19 (1) A PETITIONER UNDER **THIS SUBTITLE** SHALL GIVE A COURT NOTICE
20 THAT A MAN WHO IS NOT NAMED IN THE PETITION AND HAS NOT BEEN EXCLUDED
21 AS A FATHER CLAIMS PATERNITY.

22 (2) AFTER A REQUEST OF A PARTY OR CLAIMANT AND BEFORE RULING
23 ON A PETITION FOR ADOPTION UNDER **THIS SUBTITLE**, A COURT SHALL HOLD A
24 HEARING ON THE ISSUE OF PATERNITY.

25 COMMITTEE NOTE: Subsections (a)(1) through (6) and (b) of this section are
26 derived from former FL § 5-310.

27 Subsection (a)(7) of this section is new and added to reflect the increasing
28 reliance on the accuracy of genetic testing.

29 The introductory clause of subsection (a) of this section, "[u]nless a court
30 excludes a man as the father of a child", is substituted for the former
31 disclaimer "unless ... his nonpaternity has been established to the
32 satisfaction of the court by affidavit or testimony", which pertained only to
33 the provisions revised in subsection (a)(3) and (4) of this section, as a
34 finding by a court should pertain to all of the criteria under subsection (a)
35 of this section.

1 In subsection (a) of this section, the word "man" is substituted for the
2 former reference to "an individual who does not meet the criteria for being
3 a natural father ... claims to be the natural father", for brevity and to
4 reflect that fatherhood could result from, e.g., an earlier adoption.

5 ~~In subsection (a) (1), (2), and (6) of this section, the former word "natural"~~
6 ~~is omitted, to reflect that parental status could result from, e.g., an earlier~~
7 ~~adoption. Similarly, in subsection (b)(1) of this section, reference to a "man~~
8 ~~who is not named in the petition and has not been excluded as a father" is~~
9 ~~substituted for the former reference to "an individual who does not meet~~
10 ~~the criteria for being a natural father".~~

11 In subsection (b)(2) of this section, the limitation "before ruling on a
12 petition for adoption" is added to clarify the period during which a court
13 may act.

14 Also in subsection (b)(2) of this section, the reference to a "request of a
15 party or claimant" is substituted for the former reference to "receipt of
16 notice", to allow a claimant, as well as a petitioner, to request a hearing but
17 obviate the need for a hearing if no one requests one.

18 5-3B-07. **APPOINTED COUNSEL.**

19 (A) PARENT.

20 (1) IN A CASE UNDER **THIS SUBTITLE**, A COURT SHALL APPOINT
21 ~~COUNSEL~~ **AN ATTORNEY** TO REPRESENT A PARENT WHO:

22 (I) HAS A DISABILITY THAT MAKES THE PARENT INCAPABLE OF
23 EFFECTIVELY PARTICIPATING IN THE CASE; OR

24 (II) WHEN THE PARENT MUST DECIDE WHETHER TO CONSENT TO
25 ADOPTION, IS STILL A MINOR.

26 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PARENT
27 INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS OWN
28 MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE PARENT.

29 (B) PROSPECTIVE ADOPTEE.

30 (1) IN A CASE UNDER **THIS SUBTITLE**, A COURT SHALL APPOINT
31 ~~COUNSEL FOR~~ **AN ATTORNEY TO REPRESENT** A PROSPECTIVE ADOPTEE WHO:

32 (I) HAS A DISABILITY THAT MAKES THE PROSPECTIVE ADOPTEE
33 INCAPABLE OF EFFECTIVELY PARTICIPATING IN THE CASE; AND

34 (II) WHEN THE PROSPECTIVE ADOPTEE MUST DECIDE WHETHER
35 TO CONSENT TO ADOPTION, IS AT LEAST 10 YEARS OLD.

1 (2) TO DETERMINE WHETHER A DISABILITY MAKES A PROSPECTIVE
2 ADOPTEE INCAPABLE OF EFFECTIVELY PARTICIPATING IN A CASE, A COURT, ON ITS
3 OWN MOTION OR ON MOTION OF A PARTY, MAY ORDER EXAMINATION OF THE
4 PROSPECTIVE ADOPTEE.

5 (C) DUAL REPRESENTATION.

6 AN ATTORNEY OR FIRM:

7 (1) MAY REPRESENT MORE THAN ONE PARTY IN A CASE UNDER THIS
8 SUBTITLE ONLY IF THE MARYLAND RULES OF PROFESSIONAL CONDUCT ALLOW; AND

9 (2) MAY NOT REPRESENT A PROSPECTIVE ADOPTIVE PARENT AND
10 PARENT IN THE SAME ADOPTION CASE.

11 (D) COMPENSATION.

12 COUNSEL APPOINTED UNDER **THIS SECTION** MAY BE COMPENSATED FOR
13 REASONABLE FEES, AS APPROVED BY THE COURT.

14 COMMITTEE NOTE: Subsection (a)(1)(i) of this section is derived from former
15 FL § 5-323(a)(1)(ii), as it related to adoptions.

16 Subsection (a)(1)(ii) of this section is derived from former FL §
17 5-323(a)(1)(iii), as it related to adoptions and the substance of former FL §
18 5-301(h).

19 Subsections (a)(2) and (b)(2) of this section are derived from former FL §
20 5-323(c).

21 Subsection (b)(1) of this section is derived from former FL § 5-323(a)(1)(i),
22 as it related to adoptions.

23 Subsection (c) of this section is substituted for former FL § 5-323(e), to
24 ensure that dual representation is allowed only in accordance with the
25 Rules of Professional Conduct, and, in any event, not for both the
26 prospective adoptive parent and parent.

27 Subsection (d) of this section is derived from the first sentence of former
28 FL § 5-323(d).

29 In subsection (a) of this section, the former word "natural" is omitted as a
30 nonbiological - i. e., adoptive - parent can allow adoption in the same
31 manner as a biological parent's can.

32 In subsection (a)(1)(i) of this section, reference to "effectively participating"
33 is substituted for the former reference to "consenting and effectively
34 participating" to conform to former FL § 5-323(c) - **new subsection (a)(2)**
35 **of this section** - which, by reference to "consenting and otherwise
36 effectively participating", made clear that consent is part of effective

1 participation.

2 In subsections (a)(2) and (b) of this section, the newly defined terms
3 "parent" and "prospective adoptee" are substituted for the former word
4 "individual" for consistency with other provisions of this section.

5 Former FL § 5-323(a)(1)(iv), which provided for representation in a
6 contested adoption case, is omitted from this subtitle.

7 As to "minor" *see* **Art. 1, § 24 of the Code.**

8 Defined terms: "Adoptive parent" § 5-3B-01

9 "Disability" § 5-101

10 "Parent" § 5-3B-01

11 "Prospective adoptee" § 5-3B-01

12 5-3B-08. AGREEMENT FOR POSTADOPTION CONTACT.

13 (A) AUTHORIZED.

14 (1) A PROSPECTIVE ADOPTIVE PARENT AND A PARENT OF A
15 PROSPECTIVE ADOPTEE MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
16 CONTACT, AFTER THE ADOPTION, BETWEEN:

17 (I) THE PARENT OR OTHER RELATIVE OF THE ADOPTEE; AND

18 (II) THE ADOPTEE AND ADOPTIVE PARENT.

19 (2) AN ADOPTIVE PARENT AND FORMER PARENT OF AN ADOPTEE
20 UNDER **THIS SUBTITLE** MAY ENTER INTO A WRITTEN AGREEMENT TO ALLOW
21 CONTACT BETWEEN:

22 (I) A RELATIVE OR FORMER PARENT OF THE ADOPTEE; AND

23 (II) THE ADOPTEE OR ADOPTIVE PARENT.

24 (B) CONSTRUCTION OF AGREEMENT.

25 AN AGREEMENT MADE UNDER **THIS SECTION** APPLIES TO CONTACT WITH AN
26 ADOPTEE ONLY WHILE THE ADOPTEE IS A MINOR.

27 (C) DISSEMINATION; REDACTION.

28 AN INDIVIDUAL WHO PREPARES AN AGREEMENT DESCRIBED IN **SUBSECTION**
29 **(A)(1) OF THIS SECTION**:

30 (1) SHALL PROVIDE A COPY TO EACH PARTY IN A CASE PENDING AS TO
31 THE PROSPECTIVE ADOPTEE UNDER **THIS SUBTITLE**; AND

32 (2) IF THE AGREEMENT SO PROVIDES, SHALL REDACT IDENTIFYING
33 INFORMATION FROM THE COPIES.

1 (D) EFFECT OF NONCOMPLIANCE.

2 FAILURE TO COMPLY WITH A CONDITION OF AN AGREEMENT MADE UNDER
3 **THIS SECTION** IS NOT A GROUND FOR REVOKING CONSENT TO, ~~AN ADOPTION OR~~
4 SETTING ASIDE AN ~~FINAL~~ ORDER FOR, ADOPTION.

5 (E) ENFORCEMENT.

6 A COURT SHALL ENFORCE A WRITTEN AGREEMENT MADE IN ACCORDANCE
7 WITH **THIS SECTION** ~~IF~~ **UNLESS** ENFORCEMENT IS **NOT** IN THE ADOPTEE'S BEST INTERESTS.

8 COMMITTEE NOTE: This section is new and added to create a formal
9 procedure for postadoption visits or other contact. This section is not
10 intended, however, to preclude other agreements.

11 As to "minor", *see* **Art. 1, § 24 of the Code**.

12 Defined terms: "Adoptive parent" § 5-101

13 "Identifying information" § 5-3B-01

14 "Parent" § 5-3B-01

15 "Prospective adoptee" § 5-3B-01

16 5-3B-09. ASSESSMENT OF COSTS.

17 (A) INDEPENDENT COUNSEL AND COUNSELING.

18 A COURT MAY ORDER AN ADOPTIVE PARENT TO PAY, WHOLLY OR PARTLY,
19 REASONABLE FEES FOR A FORMER PARENT'S:

20 (1) INDEPENDENT COUNSEL; OR

21 (2) ADOPTION COUNSELING OR GUIDANCE FOR A REASONABLE TIME.

22 (B) OTHER COSTS.

23 EXCEPT AS PROVIDED IN **SUBSECTION (A) OF THIS SECTION**, A COURT MAY
24 ASSIGN AMONG THE PARTIES TO A CASE UNDER **THIS SUBTITLE** COUNSEL FEES,
25 COUNSELING OR GUIDANCE FEES, AND COSTS OF TESTING, AS THE COURT
26 CONSIDERS APPROPRIATE.

27 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
28 5-320(b)(1).

29 Subsection (b) of this section is derived from the second sentence of former
30 FL § 5-323(d) and is revised to include costs for testing.

31 Defined term: "Parent" § 5-3B-01

1 5-3B-10. APPEAL.

2 A PARTY TO A CASE UNDER **THIS SUBTITLE** MAY APPEAL TO THE COURT OF
3 SPECIAL APPEALS FROM AN INTERLOCUTORY OR FINAL ORDER.

4 COMMITTEE NOTE: This section is derived from former FL § 5-330.

5 5-3B-11. RESERVED.

6 5-3B-12. RESERVED.

7 PART II. ADOPTION PROCEEDING.

8 5-3B-13. PETITION.

9 (A) ELIGIBLE ADOPTEE.

10 ANY ADULT OR MINOR MAY BE ADOPTED UNDER **THIS SUBTITLE**.

11 (B) PETITIONER.

12 (1) ANY ADULT MAY PETITION A COURT FOR ADOPTION.

13 (2) IF A PETITIONER IS MARRIED, THE PETITIONER'S SPOUSE SHALL
14 JOIN IN THE PETITION UNLESS THE SPOUSE:

15 (I) IS SEPARATED FROM THE PETITIONER UNDER A
16 CIRCUMSTANCE THAT GIVES THE PETITIONER A GROUND FOR ANNULMENT OR
17 DIVORCE;

18 (II) IS NOT COMPETENT TO JOIN IN THE PETITION; OR

19 (III) 1. IS A PARENT OF THE PROSPECTIVE ADOPTEE; AND

20 2. HAS CONSENTED TO THE ADOPTION IN ACCORDANCE
21 WITH **THIS SUBTITLE**.

22 (C) PENDING CASE.

23 BEFORE A PETITION IS FILED UNDER **THIS SUBTITLE**, A PETITIONER SHALL
24 MOVE FOR, AND A COURT SHALL ORDER THAT, A CASE PENDING UNDER **SUBTITLE 3**
25 **OF THIS TITLE** BE CLOSED.

26 (D) AMENDED PETITION.

27 IF THE MARITAL STATUS OF A PETITIONER CHANGES BEFORE ENTRY OF ~~FINAL~~
28 ~~JUDGMENT~~ **AN ORDER** UNDER **THIS SUBTITLE**, THE PETITIONER SHALL AMEND THE PETITION
29 ACCORDINGLY.

30 COMMITTEE NOTE: Subsection (a) of this section is added to state expressly
31 that the prospective adoptee's age does not affect adoption under this

1 subtitle.

2 Subsections (b) and (c) of this section are derived from former FL §§
3 5-309(a) and 5-315.

4 Subsection (d) of this section is new and added to avoid overlapping cases
5 by requiring pending guardianship cases be closed.

6 In subsection (b)(2)(iii)1 of this section, the former word "natural" is
7 omitted as a nonbiological - i.e., adoptive - parent can allow adoption in
8 the same manner as a biological parent's can.

9 As to "adult" and "minor", *see* **Art. 1, § 24 of the Code**.

10 Defined terms: "Parent" § 5-3B-01

11 "Prospective adoptee" § 5-3B-01

12 5-3B-14. NOTICE OF FILING.

13 A COURT SHALL PROVIDE NOTICE OF THE FILING OF AN ADOPTION PETITION
14 TO EACH OF THE INDIVIDUALS WHOSE CONSENT HAS BEEN FILED UNDER **THIS**
15 **SUBTITLE** AND WHO HAS NOT WAIVED THE RIGHT TO NOTICE.

16 COMMITTEE NOTE: This section is new and added to state an express duty for
17 notice by a clerk of court.

18 5-3B-15. ORDER TO SHOW CAUSE.

19 (A) REQUIREMENT.

20 ON ISSUANCE OF A SHOW CAUSE ORDER AS TO A PROSPECTIVE ADOPTEE, A
21 PETITIONER SHALL SERVE THE ORDER:

22 (1) ON EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS WHO
23 HAS NOT CONSENTED TO THE ADOPTION; AND

24 (2) IF THE PROSPECTIVE ADOPTEE IS AT LEAST 10 YEARS OLD AND HAS
25 NOT CONSENTED TO THE ADOPTION, ON THE PROSPECTIVE ADOPTEE.

26 (B) METHOD.

27 SERVICE UNDER **THIS SECTION** SHALL BE BY PERSONAL SERVICE OR
28 CERTIFIED MAIL.

29 (C) PARENTAL ADDRESS.

30 SERVICE UNDER **THIS SECTION** SHALL BE ATTEMPTED AT THE PARENT'S LAST
31 ~~KNOWN~~ ADDRESS ~~KNOWN~~ TO THE PETITIONER.

32 (D) PUBLICATION.

1 (1) IF A COURT IS SATISFIED, BY AFFIDAVIT OR TESTIMONY, THAT A
2 PETITIONER MET THE REQUIREMENTS OF **THIS SECTION** BUT COULD NOT EFFECT
3 SERVICE ON A PARENT, THE COURT SHALL ORDER SERVICE THROUGH NOTICE BY
4 PUBLICATION AS TO THAT PARENT.

5 (2) NOTICE UNDER **THIS SUBSECTION** SHALL CONSIST OF
6 SUBSTANTIALLY THE FOLLOWING STATEMENT:

TO: (FATHER'S NAME)TO: (MOTHER'S NAME)TO: UNKNOWN PARENT

7 "YOU ARE HEREBY NOTIFIED THAT AN ADOPTION CASE HAS BEEN
8 FILED IN THE CIRCUIT COURT FOR (COUNTY NAME), CASE NO. (NUMBER).
9 ALL PERSONS WHO BELIEVE THEMSELVES TO BE PARENTS OF A (MALE OR
10 FEMALE) CHILD BORN ON (DATE OF BIRTH) IN (CITY, STATE) TO (MOTHER'S
11 AND FATHER'S NAMES **AND DATES OF BIRTH**) SHALL FILE A WRITTEN RESPONSE. A COPY OF THE
12 PETITION MAY BE OBTAINED FROM THE CLERK'S OFFICE AT (ADDRESS)
13 AND (TELEPHONE NUMBER). IF YOU DO NOT FILE A WRITTEN OBJECTION
14 BY (DEADLINE), YOU WILL HAVE AGREED TO THE PERMANENT LOSS OF
15 YOUR PARENTAL RIGHTS TO THIS CHILD."

16 (3) SERVICE UNDER **THIS SUBSECTION** SHALL BE BY:

17 (I) PUBLICATION AT LEAST ONCE IN ONE OR MORE NEWSPAPERS
18 IN GENERAL CIRCULATION IN THE COUNTY WHERE THE PETITION IS FILED OR, IF
19 DIFFERENT, WHERE THE **PARENT'S** LAST ADDRESS ~~OF THE PARENT~~ KNOWN TO THE
20 PETITIONER IS LOCATED; OR

21 (II) POSTING FOR AT LEAST 30 DAYS ON A WEBSITE OF THE STATE
22 DEPARTMENT.

23 COMMITTEE NOTE: Subsection (a) of this section is derived from former FL §
24 5-322(a)(3) and, as it related to adoption, (1)(i).

25 Subsection (b) of this section is substituted for the former reference to
26 "both certified and private process" in former FL § 5-322(c)(2).

27 Subsection (c) of this section is derived from former FL § 5-322(a)(3).

28 Subsection (d)(1), (2), and (3)(i) of this section is derived from former FL §
29 5-322(c)(1) and (2).

30 Subsection (d)(3)(ii) of this section is new and added to afford an
31 alternative means of notice by publication on a website.

32 In subsection (d)(1) of this section, the former limitation "[i]f the child has
33 not been adjudicated to be a child in need of assistance in a prior juvenile
34 proceeding" is deleted as unnecessary in light of the scope of this subtitle
35 under **new § 5-3B-02(a)**.

36 As to a newspaper in general circulation, see **Art. 1, § 28 of the Code**.

1 Defined terms: "County" § 1-101

2 "Parent" § 5-3B-01

3 "Prospective adoptee" § 5-3B-01

4 "State Department" § 5-101

5 5-3B-16. INVESTIGATION; ~~HEARING ON PETITION.~~

6 (A) SCOPE OF SECTION.

7 **THIS SECTION** DOES NOT APPLY IF A PETITIONER FOR ADOPTION IS A
8 STEPPARENT.

9 (B) INVESTIGATION.

10 IN ADDITION TO ANY INVESTIGATION REQUIRED UNDER ~~§ 5-3B-20~~ **5-3B-21 OF THIS**
11 **SUBTITLE**, BEFORE RULING ON AN ADOPTION PETITION, A COURT MAY ORDER ANY
12 INVESTIGATION THAT THE COURT CONSIDERS NECESSARY.

13 ~~(C) HEARING.~~

14 ~~A COURT SHALL HOLD A HEARING BEFORE ENTERING A FINAL ORDER FOR~~
15 ~~ADOPTION UNDER THIS SUBTITLE.~~

16 COMMITTEE NOTE: This section is derived from **the references to investigations in** former FL § 5-317(c)(1) and
17 ~~the reference to investigations in~~ (g)(1).

5-3B-17. HEARING ON PETITION.

(A) SCOPE OF SECTION.

THIS SECTION DOES NOT APPLY IF A PETITIONER FOR ADOPTION IS A STEPPARENT.

(B) HEARING.

A COURT SHALL HOLD A HEARING BEFORE ENTERING AN ORDER FOR ADOPTION UNDER **THIS SUBTITLE**.

COMMITTEE NOTE: This section is derived from the references to hearings in former FL § 5-317(c)(1) and (g)(1).

18 ~~5-3B-17~~ **5-3B-18. TIME LIMIT.**

19 A COURT MAY NOT ENTER AN ~~FINAL~~ ORDER FOR ADOPTION UNDER **THIS**
20 **SUBTITLE** UNTIL EXPIRATION OF THE REVOCATION PERIOD.

21 COMMITTEE NOTE: This section is derived from former FL § 5-324(2).

22 ~~5-3B-18~~ **5-3B-19. AUTHORITY TO GRANT ADOPTION.**

23 A COURT MAY ENTER AN ~~FINAL~~ ORDER FOR ADOPTION ONLY IF:

24 (1) (I) EACH OF THE PROSPECTIVE ADOPTEE'S LIVING PARENTS
25 CONSENTS:

26 1. IN WRITING; OR

27 2. BY FAILURE TO TIMELY FILE NOTICE OF OBJECTION
28 AFTER BEING SERVED WITH A SHOW CAUSE ORDER IN ACCORDANCE WITH THIS
29 SUBTITLE; AND

30 (II) IF THE PROSPECTIVE ADOPTEE IS AT LEAST 10 YEARS OLD, THE
31 PROSPECTIVE ADOPTEE CONSENTS; OR

1 (2) IN ACCORDANCE WITH ~~§ 5-3B-20~~ **§ 5-3B-21 OF THIS SUBTITLE**, THE COURT
2 ORDERS ADOPTION WITHOUT CONSENT OTHERWISE REQUIRED UNDER **THIS**
3 **SECTION**.

4 COMMITTEE NOTE: This section is derived from former FL § 5-317(c)(2), as it
5 related to adoption under this subtitle, and revised to clarify that failure to
6 respond to a show cause order is deemed to be consent.

7 The former word "natural" is deleted, to reflect that the parental rights of
8 a nonbiological - i.e., adoptive - parent can be terminated in the same
9 manner as a biological parent's can.

10 Defined terms: "Parent" § 5-3B-01

11 "Prospective adoptee" § 5-3B-01

12 ~~5-3B-19~~ **5-3B-20**. CONSENT.

13 (A) CONTENTS.

14 CONSENT TO ADOPTION UNDER **THIS SUBTITLE** IS NOT VALID UNLESS THE
15 CONSENT:

16 (1) IS GIVEN AFTER THE PROSPECTIVE ADOPTEE IS BORN;

17 (2) CONTAINS AN EXPRESS NOTICE OF:

18 (I) THE RIGHT TO REVOKE CONSENT AT ANY TIME WITHIN 14 DAYS
19 AFTER THE CONSENT IS SIGNED;

20 (II) THE SEARCH RIGHTS OF ADOPTEES AND ~~BIOLOGICAL~~ PARENTS
21 UNDER **§ 5-3B-29 OF THIS SUBTITLE** AND **SUBTITLES 4B AND 4D OF THIS TITLE**; AND

[NOTE: If the veto of HB 232 (2004) is overridden, subitem (ii) should read "the search rights of adoptees, parents, and siblings ...".]

22 (III) THE RIGHT TO FILE A DISCLOSURE VETO UNDER **§ 5-3B-29 OF THIS SUBTITLE** ~~4D~~
23 ~~OF THIS TITLE~~;

24 (3) EXCEPT AS TO AN ADOPTION BY A SPOUSE OF THE PROSPECTIVE
25 ADOPTEE'S PARENT OR A RELATIVE OF THE PROSPECTIVE ADOPTEE, STATES THAT
26 THE PARENT HAS BEEN ADVISED OF THE PARENT'S RIGHTS TO:

27 (I) HAVE INDEPENDENT COUNSEL; AND

28 (II) RECEIVE ADOPTION COUNSELING AND GUIDANCE;

29 (4) STATES WHETHER THE PARENT CHOSE TO HAVE OR NOT HAVE
30 COUNSEL OR COUNSELING; AND

31 (5) IS ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL APPOINTED UNDER
32 **§ 5-3B-07 OF THIS SUBTITLE** STATING THAT A PARENT WHO IS A MINOR OR HAS A
33 DISABILITY GIVES CONSENT KNOWINGLY AND WILLINGLY.

34 (B) REVOCATION PERIOD.

1 (1) (I) SUBJECT TO **SUBPARAGRAPH (II) OF THIS PARAGRAPH**, A
2 PARENT MAY REVOKE CONSENT AT ANY TIME WITHIN 14 DAYS AFTER THE PARENT
3 SIGNS THE CONSENT.

4 (II) A PARENT MAY NOT REVOKE CONSENT FOR ADOPTION OF A
5 PROSPECTIVE ADOPTEE IF, IN THE PRECEDING YEAR, THE PARENT HAS REVOKED
6 CONSENT FOR OR FILED A NOTICE OF OBJECTION TO ADOPTION OF THE
7 PROSPECTIVE ADOPTEE.

8 (2) A PROSPECTIVE ADOPTEE MAY REVOKE CONSENT AT ANY TIME
9 BEFORE A COURT ENTERS AN ~~FINAL~~ ORDER OF ADOPTION UNDER **THIS SUBTITLE**.

10 COMMITTEE NOTE: Subsection (a)(1) of this section is derived from former FL
11 § 5-314(a) and revised to incorporate the substance of the referenced FL §
12 5-311, as it related to the revocation period.

13 Subsection (a)(2) and (3) of this section is derived former FL §
14 5-320(b)(2)(i) and (ii).

15 Subsection (a)(4) of this section is derived from former FL § 5-314(b).

16 Subsection (b) of this section is derived from former FL § 5-311(c), as it
17 related to consent of individuals, and revised to limit the period in which a
18 prospective adoptee may revoke consent.

19 In subsection (a)(1) of this section, the former word "natural" is deleted, to
20 reflect that the parental rights of a nonbiological - i.e., adoptive - parent
21 can be terminated in the same manner as a biological parent's can.
22 Similarly, in the introductory language of subsection (e) of this section, the
23 former reference to consent "of the natural parent" is deleted. This deletion
24 also reflects that the requirement as to consent of a prospective adoptee
25 applies as well.

As to "minor", see Art. 1, § 24 of the Code.

26 Defined terms: "Adoptive parent" § 5-101

27 "Disability" § 5-101

28 "Parent" § 5-3B-01

29 "Prospective adoptee" § 5-3B-01

30 ~~5-3B-20~~ **5-3B-21**. NONCONSENSUAL ADOPTION.

31 (A) SCOPE OF SECTION.

32 **THIS SECTION** APPLIES ONLY IF A PARENT AFFIRMATIVELY WITHHOLDS
33 CONSENT BY FILING A NOTICE OF OBJECTION.

34 (B) CUSTODIAN.

35 (1) A COURT MAY ALLOW ADOPTION, WITHOUT PARENTAL CONSENT
36 OTHERWISE REQUIRED UNDER **THIS SUBTITLE**, BY A PETITIONER WHO HAS
37 EXERCISED PHYSICAL CARE, CONTROL, OR CUSTODY OVER THE PROSPECTIVE

1 ADOPTEE FOR AT LEAST 180 DAYS, IF THE COURT FINDS BY CLEAR AND CONVINCING
2 EVIDENCE THAT:

3 (I) THE PARENT HAS NOT HAD CUSTODY OF THE PROSPECTIVE
4 ADOPTEE FOR AT LEAST 1 YEAR;

5 (II) THE PROSPECTIVE ADOPTEE HAS SIGNIFICANT EMOTIONAL
6 TIES TO AND FEELINGS FOR THE PETITIONER; AND

7 (III) THE PARENT:

8 1. HAS NOT MAINTAINED MEANINGFUL CONTACT WITH THE
9 PROSPECTIVE ADOPTEE WHILE THE PETITIONER HAD CUSTODY, NOTWITHSTANDING
10 AN OPPORTUNITY TO DO SO;

11 2. HAS FAILED TO CONTRIBUTE TO THE PROSPECTIVE
12 ADOPTEE'S PHYSICAL CARE AND SUPPORT, NOTWITHSTANDING THE ABILITY TO DO
13 SO;

14 3. HAS SUBJECTED THE PROSPECTIVE ADOPTEE TO:

15 A. CHRONIC ABUSE;

16 B. CHRONIC AND LIFE-THREATENING NEGLECT;

17 C. SEXUAL ABUSE; OR

18 D. TORTURE;

19 4. HAS BEEN CONVICTED OF ABUSE OF ANY OFFSPRING;

20 5. HAS BEEN CONVICTED, IN ANY STATE OR ANY COURT OF
21 THE UNITED STATES, OF:

22 A. A CRIME OF VIOLENCE AGAINST ~~ANY~~ A MINOR OFFSPRING OF THE
PARENT, THE CHILD, OR ANOTHER PARENT OF THE CHILD; OR

23 B. AIDING OR ABETTING, CONSPIRING, OR SOLICITING TO
24 COMMIT A CRIME OF VIOLENCE AGAINST ANY OFFSPRING DESCRIBED IN SUBITEM A OF THIS ITEM; OR

25 6. HAS, OTHER THAN BY CONSENT, LOST PARENTAL RIGHTS
26 TO A SIBLING OF THE PROSPECTIVE ADOPTEE.

27 (2) IF A COURT FINDS THAT AN ACT OR CIRCUMSTANCE LISTED IN
28 **PARAGRAPH (1)(III)3 OR 5 OF THIS SUBSECTION** EXISTS, THE COURT SHALL MAKE A
29 SPECIFIC FINDING, BASED ON FACTS IN THE RECORD, WHETHER RETURN OF THE
30 PROSPECTIVE ADOPTEE TO THE CUSTODY OF THE PARENT POSES AN
31 UNACCEPTABLE RISK TO THE PROSPECTIVE ADOPTEE'S SAFETY.

32 (3) IN RULING UNDER **THIS SUBSECTION**, A COURT SHALL GIVE
33 PRIMARY CONSIDERATION TO THE HEALTH AND SAFETY OF THE PROSPECTIVE
34 ADOPTEE IN DETERMINING THE PROSPECTIVE ADOPTEE'S BEST INTERESTS.

1 COMMITTEE NOTE: This section is derived from former FL § 5-312(a) through
2 (c).

3 In subsection (b)(1)(iii)5 of this section, references to crimes "against any
4 offspring" are substituted for the former references to "the child, the other
5 natural parent of the child, another child of the natural parent, or any
6 person who resides in the household with the natural parent".

7 Defined terms: "Crime of violence" § 5-101

8 "Parent" § 5-3B-01

9 "Prospective adoptee" § 5-3B-01

10 "State" § 5-101

11 "Support" § 1-101

12 ~~5-3B-21~~ **5-3B-22**. CUSTODY.

13 A COURT MAY NOT GRANT A PETITION UNDER **THIS SUBTITLE** SOLELY BECAUSE
14 A PARENT:

15 (1) DOES NOT HAVE LEGAL CUSTODY OF A PROSPECTIVE ADOPTEE BY
16 REASON OF A DIVORCE OR LEGAL SEPARATION; OR

17 (2) HAS BEEN DEPRIVED OF CUSTODY OF A PROSPECTIVE ADOPTEE BY
18 AN ACT OF THE OTHER PARENT.

19 COMMITTEE NOTE: This section is derived from former FL § 5-312(d).

20 Defined terms: "Parent" § 5-3B-01

21 "Prospective adoptee" § 5-3B-01

22 ~~5-3B-22~~ **5-3B-23**. ACCOUNTING.

23 (A) SCOPE OF SECTION.

24 **THIS SECTION** DOES NOT APPLY TO AN ADOPTION BY THE SPOUSE OF THE
25 PROSPECTIVE ADOPTEE'S PARENT OR A RELATIVE OF THE PROSPECTIVE ADOPTEE.

26 (B) REQUIREMENT.

27 A COURT MAY NOT ENTER AN ~~FINAL~~ ORDER UNDER **THIS SUBTITLE** UNTIL THE
28 PETITIONER FILES WITH THE COURT AN ACCOUNTING OF ALL PAYMENTS AND
29 DISBURSEMENTS OF ANY ITEM OF VALUE MADE BY OR FOR THE PETITIONER IN
30 CONNECTION WITH THE ADOPTION.

31 COMMITTEE NOTE: This section is derived from former FL § 5-327(c) and
32 revised as a duty of a court.

33 Defined terms: "Parent" § 5-3B-01

34 "Prospective adoptee" § 5-3B-01

1 ~~5-3B-23~~ **5-3B-24**. EFFECTS OF FINAL JUDGMENT **ORDER FOR ADOPTION**.

2 (A) EFFECT ON ~~CHILD-PARENT RELATIONSHIP~~ **DISTRIBUTION BY WILL**.

3 ~~(1)~~ **THIS SUBSECTION** DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL
4 TO PROVIDE FOR DISTRIBUTION OF PROPERTY BY WILL.

(B) EFFECT ON CHILD-PARENT RELATIONSHIP.

5 ~~(2)~~ EXCEPT AS OTHERWISE PROVIDED IN **§ 2-123 OF THE REAL**
6 **PROPERTY ARTICLE**, AFTER A COURT ENTERS JUDGMENT **AN ORDER** FOR ADOPTION UNDER
7 **THIS SUBTITLE**:

8 (1) ~~(1)~~ THE ADOPTEE:

9 (I) ~~(I)~~ **±** IS THE OFFSPRING OF THE ADOPTIVE PARENT FOR ALL
10 INTENTS AND PURPOSES; AND

11 (II) ~~(II)~~ **±** IS ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF
12 AND IS SUBJECT TO ALL OF THE OBLIGATIONS OF OFFSPRING BORN TO THE
13 ADOPTIVE PARENT;

14 (2) ~~(1)~~ EACH OF THE ADOPTEE'S LIVING PARENTS IS:

15 (I) ~~(I)~~ **±** RELIEVED OF ALL PARENTAL DUTIES AND OBLIGATIONS
16 TO THE ADOPTEE; AND

17 (II) ~~(II)~~ **±** DIVESTED OF ALL PARENTAL RIGHTS AS TO THE
18 ADOPTEE; AND

19 (3) ~~(1)~~ THE ESTATES AND TRUSTS ARTICLE SHALL GOVERN ALL OF
20 THE RIGHTS OF INHERITANCE BETWEEN THE ADOPTEE AND PARENTAL RELATIVES.

21 COMMITTEE NOTE: ~~Subsection (a) of this~~ **This** section is derived from former FL §
22 5-308(a) and (b), as it related to adoptions under this subtitle.

23 ~~Subsection (b) of this section is new and added to provide an express~~
24 ~~termination date for pending cases.~~

25 In subsection ~~(a)(2)~~ **(b)** of this section, the word "adoptive" is substituted for the
26 former references to the "individual adopted" for consistency and brevity.

27 In subsection ~~(a)(2)(i)1 and 2~~ **(b)(1)(i) and (ii)** of this section, the newly defined term
28 "adoptive parent" is substituted for the former references to a "petitioner"
29 for consistency.

30 The introductory exception in subsection ~~(a)(2)~~ **(b)** of this section, "[e]xcept as
31 provided in **§ 2-123 of the Real Property Article**", is substituted for the
32 former exception "this section" i.e., former FL § 5-308 to reflect the
33 recodification of part of former § 5-308(d). The balance is covered by **new**
34 **subsection (a)(2)(iii) (b)(3)**.

35 In subsection ~~(a)(2)(i)2~~ **(b)(1)(ii)** of this section, the reference to "offspring born" to

1 the adoptive parent is substituted for the former reference to "a child born
 2 to the petitioner in wedlock" to avoid the misleading inference that
 3 illegitimacy affects a right, privilege, or obligation of a biological offspring
 4 or that the age of majority might affect an adoptee differently from a
 5 biological offspring.

6 In subsection ~~(a)(2)(ii)~~ **(b)(2)** of this section, the former reference to a "natural"
 7 parent is deleted to reflect that the duties and rights of nonbiological - i.e.,
 8 adoptive - relatives are affected in the same manner as a biological
 9 relative's. Accordingly, in subsection ~~(a)(2)(iii)~~ **(b)(3)** of this section, a reference to
 10 "parental" relatives is substituted for the former reference to "natural"
 11 relatives.

12 Defined terms: "Adoptive parent" § 5-101

13 "Parent" § 5-3B-01

14 ~~5-3B-24~~ **5-3B-25**. PETITION TO INVALIDATE.

15 IF A PETITION TO INVALIDATE AN ~~FINAL~~ ORDER UNDER **THIS SUBTITLE** ON THE
 16 BASIS OF A JURISDICTIONAL OR PROCEDURAL DEFECT IS FILED MORE THAN 1 YEAR
 17 AFTER ENTRY OF THE ORDER, A COURT SHALL DISMISS THE PETITION.

18 COMMITTEE NOTE: This section is derived from former FL § 5-325 and
 19 revised to require dismissal rather than barring receipt, as more consistent
 20 with court practices.

21 ~~5-3B-25~~ **5-3B-26**. RESERVED.

22 ~~5-3B-26~~ **5-3B-27**. RESERVED.

PART III. ACCESS TO ADOPTION RECORDS.

5-3B-28. URGENTLY NEEDED MEDICAL INFORMATION.

(A) HEARING ON NEED.

IF, AFTER A HEARING ON PETITION OF AN ADOPTEE, A COURT IS SATISFIED THAT THE ADOPTEE OR
 BLOOD RELATIVE OF THE ADOPTEE URGENTLY NEEDS MEDICAL INFORMATION NOT IN COURT RECORDS, THE
 COURT MAY APPOINT AN INTERMEDIARY TO TRY TO CONTACT A FORMER PARENT OF THE ADOPTEE FOR THE
 INFORMATION.

(B) ROLE OF INTERMEDIARY.

AN INTERMEDIARY APPOINTED UNDER **THIS SECTION**:

- (1) ONLY MAY ADVISE A FORMER PARENT OF THE NEED FOR MEDICAL INFORMATION; AND
- (2) MAY NOT:
 - (I) REVEAL ANY IDENTIFYING INFORMATION OF AN ADOPTEE; OR
 - (II) TRY, IN ANY MANNER, TO ENCOURAGE OR DISCOURAGE CONTACT BETWEEN AN

ADOPTEE AND FORMER PARENT.

(C) REPORT TO COURT.

AN INTERMEDIARY APPOINTED UNDER **THIS SECTION** SHALL FILE WITH THE APPOINTING COURT A
 CONFIDENTIAL WRITTEN REPORT ON THE INTERMEDIARY'S EFFORTS TO CONTACT A FORMER PARENT.

(D) DISCLOSURE BY COURT.

WHEN A COURT RECEIVES A REPORT FROM AN INTERMEDIARY, THE COURT MAY DISCLOSE TO THE
 ADOPTEE, WITHOUT REVEALING IDENTIFYING INFORMATION ABOUT ANY FORMER PARENT:

- (1) WHETHER THE INTERMEDIARY ADVISED A FORMER PARENT ABOUT THE NEED FOR
 MEDICAL INFORMATION; AND
- (2) MEDICAL INFORMATION THAT A FORMER PARENT PROVIDED.

(E) COMPENSATION.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY ORDER AN ADOPTEE TO PAY A
 REASONABLE FEE FOR THE SERVICES OF AN INTERMEDIARY UNDER **THIS SECTION**.

COMMITTEE NOTE: This section is derived from former FL § 5-329(c) through (e) and revised to clarify that an intermediary is
 allowed to contact only a former parent and not a spouse, child, or other family member of a former parent.

Throughout this section, references to a "former" parent are substituted for the former references to a "birth" parent, to
 recognize that, e.g., a former parent, by adoption, may have information about an adoptee or biological parent.

In subsection (a) of this section, the former reference to "evidence presented at the hearing" is omitted as unnecessary in light
 of the rules governing proceedings generally and as potentially over narrow should a court request memoranda or other submissions to
 which an opposing party has an opportunity to respond.

Defined terms: "Adoptive parent" § 5-101

"Identifying information" § 5-3B-01

"Parent" § 5-3B-01

5-3B-29. VITAL RECORDS.

(A) DEFINITIONS.

- (1) IN **THIS SECTION** THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
- (2) "DIRECTOR" MEANS THE STATE DIRECTOR OF SOCIAL SERVICES.
- (3) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL HYGIENE.

(B) SCOPE OF SECTION.

THIS SECTION APPLIES ONLY TO AN ADOPTION IN WHICH A COURT ENTERS AN ORDER FOR ADOPTION ON OR AFTER JANUARY 1, 2000.

(C) CONSTRUCTION OF SECTION.

THIS SECTION DOES NOT BAR:

(1) AN ADOPTEE OR BIOLOGICAL PARENT FROM APPLYING FOR SEARCH, CONTACT, AND REUNION SERVICES UNDER **SUBTITLE 4B OF THIS TITLE**; OR

(2) THE DIRECTOR OR A CONFIDENTIAL INTERMEDIARY FROM OBTAINING A COPY OF A RECORD UNDER **§ 5-4B-04(C) OR § 5-4B-06(B) OR (C) OF THIS TITLE**.

(D) APPLICATION FOR RECORD.

(1) AN ADOPTEE WHO IS AT LEAST 21 YEARS OLD MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH, IF ANY; OR

(III) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE**.

(2) A BIOLOGICAL PARENT OF AN ADOPTEE WHO HAS ATTAINED 21 YEARS MAY APPLY TO THE SECRETARY FOR A COPY OF:

(I) THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(II) THE NEW CERTIFICATE OF BIRTH, IF ANY, THAT WAS SUBSTITUTED, UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE**, FOR THE ADOPTEE'S ORIGINAL CERTIFICATE OF BIRTH;

(III) ALL RECORDS THAT RELATE TO THE ADOPTEE'S NEW CERTIFICATE OF BIRTH; OR

(IV) THE REPORT OF THE ADOPTEE'S ORDER OF ADOPTION FILED BY THE CLERK OF COURT UNDER **§ 4-211 OF THE HEALTH - GENERAL ARTICLE**.

(3) EACH APPLICANT UNDER **THIS SUBSECTION** SHALL:

(I) PROVIDE ALL PROOF OF IDENTITY AND OTHER RELEVANT INFORMATION THAT THE SECRETARY REQUIRES; AND

(II) PAY THE FEE REQUIRED UNDER **TITLE 4, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE** FOR A COPY OF A RECORD.

(E) DISCLOSURE VETO.

(1) A BIOLOGICAL PARENT MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THAT PARENT IN A RECORD ACCESSIBLE UNDER **THIS SECTION**;

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(2) AFTER AN ADOPTEE ATTAINS 21 YEARS OF AGE, THE ADOPTEE MAY:

(I) FILE WITH THE DIRECTOR A DISCLOSURE VETO TO BAR DISCLOSURE OF INFORMATION ABOUT THE ADOPTEE IN A RECORD ACCESSIBLE UNDER **THIS SECTION**;

(II) CANCEL A DISCLOSURE VETO AT ANY TIME; AND

(III) REFILE A DISCLOSURE VETO AT ANY TIME.

(3) IMMEDIATELY AFTER THE DIRECTOR RECEIVES A DISCLOSURE VETO OR CANCELLATION UNDER **THIS SECTION**, THE DIRECTOR SHALL FORWARD A COPY TO THE SECRETARY.

(F) DUTIES OF SECRETARY.

(1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT **THIS SECTION**.

(2) SUBJECT TO **PARAGRAPHS (3) AND (4) OF THIS SUBSECTION**, THE SECRETARY SHALL GIVE TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF **THIS SECTION** A COPY OF EACH RECORD THAT THE APPLICANT REQUESTED AND THAT THE SECRETARY HAS ON FILE.

(3) WHENEVER A BIOLOGICAL PARENT APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO:

(I) THE OTHER BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION**; AND

(II) THE ADOPTEE AND EACH ADOPTIVE PARENT, IF THE ADOPTEE HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION**.

(4) WHENEVER AN ADOPTEE APPLIES FOR A RECORD, THE SECRETARY SHALL REDACT FROM THE COPY ALL INFORMATION AS TO THE BIOLOGICAL PARENT, IF THAT PARENT HAS FILED A DISCLOSURE VETO IN ACCORDANCE WITH **THIS SECTION**.

(5) THE SECRETARY SHALL GIVE EACH APPLICANT UNDER **THIS SECTION** NOTICE OF THE ADOPTION SEARCH, CONTACT, AND REUNION SERVICES AVAILABLE UNDER THIS TITLE.

COMMITTEE NOTE: Subsection (a) of this section is new and added to allow concise reference to the Director and Secretary.

Subsections (b) through (f) of this section are derived from former FL §§ 5-3A-01 through 5-3A-07.

In subsection (e)(3) of this section, a duty to forward a cancellation is added, for completeness.

Defined terms: "Adoptive parent" § 5-101

"Parent" § 5-3B-01

"State Department" § 5-101

5-3B-30. RESERVED.

5-3B-31. RESERVED.

23 PART ~~III~~ IV. PROHIBITED ACT.

24 ~~5-3B-27~~ 5-3B-32. PROHIBITED PAYMENTS.

25 (A) PROHIBITED ACT.

26 EXCEPT AS OTHERWISE PROVIDED BY LAW, A GOVERNMENTAL UNIT OR A
27 PERSON MAY NOT CHARGE OR RECEIVE, FROM OR FOR A PARENT OR PROSPECTIVE
28 ADOPTIVE PARENT, ANY COMPENSATION FOR A SERVICE IN CONNECTION WITH:

29 (1) PLACEMENT OF AN INDIVIDUAL TO LIVE WITH A PREADOPTIVE
30 FAMILY, ~~AS DEFINED IN § 3-823(d)(1) OF THE COURTS ARTICLE;~~ OR

31 (2) AN AGREEMENT FOR CUSTODY IN CONTEMPLATION OF ADOPTION.

32 (B) CONSTRUCTION OF SECTION.

33 **THIS SECTION** DOES NOT PROHIBIT PAYMENT, BY AN INTERESTED PERSON, OF
34 A REASONABLE AND CUSTOMARY CHARGE OR FEE FOR ADOPTION COUNSELING,
35 HOSPITAL, LEGAL, OR MEDICAL SERVICES.

1 (C) DUTY OF STATE'S ATTORNEY.

2 EACH STATE'S ATTORNEY SHALL ENFORCE **THIS SECTION**.

3 (D) PENALTIES.

4 A PERSON WHO VIOLATES ANY PROVISION OF **THIS SECTION** IS GUILTY OF A
5 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100 OR
6 IMPRISONMENT NOT EXCEEDING 3 MONTHS OR BOTH, FOR EACH OFFENSE.

7 COMMITTEE NOTE: This section is derived from former FL § 5-327(a), (b), (d),
8 and (e) and the substance of § 5-301(j), which defined "placement for
9 adoption".

10 In subsection (a) of this section, reference to a prospective "adoptive
11 parent" is substituted for the former reference to the "individual who is
12 adopting the individual", for brevity and consistency with other references
13 throughout this subtitle.

14 In subsection (a) of this section, the phrase "by law" is added to delineate
15 the scope of the exception.

16 Also in subsection (a) of this section, the reference to a prospective
17 adoptive "parent" is substituted for the former reference to the "individual
18 who is adopting the individual" and the prospective adoptive "family or
19 individual", for consistency to other references throughout this subtitle.

20 Also in subsection (a) of this section, reference to a "governmental unit or
21 person" is substituted for the former references to "an agency, institution,
22 or individual", to state expressly that governmental units are covered - a
23 private "agency, institution, or individual" being within the defined term
24 "person".

25 In subsection (c) of this section, a duty to "enforce" is substituted for the
26 former duty to "prosecute any violation", as more consistent with
27 prosecutorial discretion.

28 In subsection (d) of this section, reference to a violation of "any provision"
29 is added to clarify that a prosecutor need not show violation of every
30 provision.

31 Defined terms: "Adoptive parent" § 5-3B-01

32 "Person" § 1-101

33 "Parent" § 5-3B-01

34 5-401.

35 (a) In **this subtitle** the following words have the meanings indicated.

1 (b) "ADMINISTRATION" MEANS THE SOCIAL SERVICES ADMINISTRATION OF
2 THE STATE DEPARTMENT.

3 (C) "Eligible child" means a minor [child] as to whom:

4 (1) (I) guardianship [with the right to consent to adoption] has been
5 awarded to a child placement agency under Subtitle 3 of this title; [and] OR

6 (II) CONSENSUAL ADOPTION HAS BEEN ORDERED UNDER § ~~5-337~~ 5-338
7 **OF THIS TITLE**; AND

8 (2) a determination has been made by a local department under § 5-403
9 **of this subtitle** that a subsidy is necessary to [assure] ENSURE the child's adoption
10 because of the child's special circumstances.

11 [(c) "Local department" means a local department of social services of a
12 county.]

13 (d) "Subsidy" means:

14 (1) a money payment;

15 (2) medical care;

16 (3) medical assistance; or

17 (4) special services.

18 5-407.

19 (c) The [Social Services] Administration [of the Department of Human
20 Resources] may reimburse the Department of Health and Mental Hygiene for the
21 cost of medical assistance and medical care directly or through a contract with the
22 Department [of Health and Mental Hygiene].

23 5-410.1.

24 (a) If the STATE Department makes the determinations under subsection (b)
25 of this section, an adoptive parent involved in an independent or intercountry
26 adoption of a child is entitled to reimbursement by the State for certain nonrecurring
27 adoption expenses associated with the adoption.

28 (b) An adoptive parent is eligible for reimbursement of nonrecurring adoption
29 expenses, if the STATE Department determines that:

30 (1) the child should not be returned to its biological parents;

31 (2) the child cannot be placed with adoptive parents without providing
32 assistance because of certain factors or conditions regarding the child, including
33 ethnic background, age, the presence and number of siblings, or physical, mental, or
34 emotional handicaps; and

1 (3) except where it would be against the best [interest] INTERESTS of the child,
2 previous adoption attempts have been made without assistance and were
3 unsuccessful.

4 (c) Application for nonrecurring adoption expenses shall be filed with the
5 STATE Department:

6 (1) prior to the [final {decree}] ORDER; and

7 (2) on a form provided by the STATE Department.

8 (d) (1) Upon approval of the application, there shall be a written agreement
9 between the STATE Department and the prospective adoptive parents regarding the
10 reimbursement of nonrecurring adoption expenses.

11 (2) Except as provided in paragraph (3) of this subsection, the agreement
12 shall be signed by the adoptive parents and an agent of the STATE Department prior
13 to the [final] adoption [decree] ORDER.

14 (3) The agreement is not required to be signed by the adoptive parents
15 and an agent of the STATE Department prior to the [final] adoption [decree] ORDER if the [final
16 decree] ORDER:

17 (i) was entered between January 1, 1987 and July 1, 1990; or

18 (ii) was entered before January 1, 1987, but nonrecurring adoption
19 expenses were paid after January 1, 1987.

20 (4) ADOPTIVE PARENTS FILING FOR REIMBURSEMENT OF
21 NONRECURRING ADOPTION EXPENSES IN CASES DESCRIBED UNDER PARAGRAPH (3)
22 OF THIS SUBSECTION SHALL:

23 (I) ENTER INTO A WRITTEN AGREEMENT WITH THE STATE
24 DEPARTMENT; AND

25 (II) FILE ALL CLAIMS NO LATER THAN DECEMBER 14, 1990.

26 (e) Reimbursement for nonrecurring adoption expenses is limited to a
27 maximum of \$2,000 for reasonable and necessary actual costs that are not
28 reimbursable from another source, including:

29 (1) adoption fees;

30 (2) court costs and reasonable attorney's fees;

31 (3) health examinations;

32 (4) transportation costs; and

33 (5) food and lodging costs incurred during preplacement visits.

1 (f) Except in cases described under subsection (d)(3) of this section, adoptive
2 parents shall file all claims for nonrecurring adoption expenses within 2 years [of]
3 AFTER the [final adoption [decree] ORDER.

4 [(g) Adoptive parents filing for reimbursement of nonrecurring adoption
5 expenses in cases described under subsection (d)(3) of this section shall:

6 (1) enter into a written agreement with the Department; and

7 (2) file all claims no later than December 14, 1990.]

8 5-412.

9 The Director of the [Social Services] Administration [of the Department] shall
10 adopt [rules and] regulations to carry out the provisions of **this subtitle**.

11 5-4A-01.

12 (b) "Administration" means the Social Services Administration of the STATE
13 Department.

14 5-4B-01.

15 (b) "Administration" means the Social Services Administration of the STATE
16 Department.

17 5-4B-02.

18 (d) A [biological] parent who has had his or her parental rights terminated
19 under [§ 5-312 or § 5-313] SUBTITLE 3 of this title may not apply to receive search,
20 contact, and reunion services under **this subtitle**.

21 5-4C-01.

22 (b) "Administration" means the Social Services Administration of the STATE
23 Department.

24 5-4C-06.

25 (a) (1) To register with the Registry, an individual shall submit a notarized
26 affidavit containing the following information:

27 (vii) if known, the name and address of the child placement agency
28 [or local department], if any, that placed the adoptee;

29 (ix) the name and address of the court that issued the adoption or
30 guardianship [decree] ORDER; and

1 5-4C-07.

2 (c) (1) In order to make a match or provide matching information, the
3 Administration may inquire into the records of a child placement agency[, local
4 department,] or court that issued an adoption or guardianship [decree] ORDER.

5 (2) The court that issued the adoption [decree] ORDER shall order that
6 the Administration have access to court records on receipt of a petition from the
7 Administration that states that review of the records is needed in order to make a
8 match or to provide matching information under this section.

9 5-501.

10 (b) "Administration" means the Social Services Administration of the STATE
11 Department.

12 5-504.

13 (a) Foster parents in this State have the following rights:

14 (2) with regard to the local department [of social services] case
15 planning, the right to:

16 (i) except for meetings covered by the attorney-client privilege or
17 meetings in which confidential information about the natural parents is discussed, be
18 notified of, and when applicable, be heard at scheduled meetings and staffings
19 concerning a child in order to actively participate, without superseding the rights of
20 the natural parents to participate and make appropriate decisions regarding the
21 child, in the case planning, administrative case reviews, interdisciplinary staffings,
22 and individual educational planning and mental health team meetings;

23 (ii) be informed of decisions made by the courts or a child welfare
24 agency concerning a child; and

25 (iii) provide input concerning the plan of services for a child and to
26 have that input given full consideration by the local department [of social services];
27 and

28 5-506.

29 (b) In addition to other [rules and] regulations adopted under this title, the
30 STATE Department may adopt [rules and] regulations to carry out §§ 5-507, 5-508,
31 5-509, and 5-509.1 of this subtitle, which relate to the licensing of child placement
32 agencies, child care homes, child care institutions, and residential educational
33 facilities.

34 (c) (1) By [rule or] regulation, the STATE Department may delegate
35 authority to [local departments and licensed] child placement agencies to issue
36 licenses or approve applicants for licenses under this subtitle.

1 (2) Any [rule or] regulation adopted by the STATE Department under
2 **this subsection** shall provide for an appeal to an administrative appellate authority
3 from a decision of a [local department or licensed] child placement agency.

(e) Except as provided in Article 49D, § 12 of the code, the STATE Department shall cooperate in planning and determining the cost of developing and implementing a system of evaluating the success of services to children in out-of-home placement.

4 5-517.

5 A person authorized to make a placement who is aggrieved by a decision of a
6 [local department or a licensed] child placement agency that has a delegated
7 authority to issue or approve a license under **this subtitle** may appeal the decision to
8 the administrative appellate authority designated by [rule or] regulation.

9 5-525.

10 (d) (1) Unless a court orders that reasonable efforts are not required under §
11 **3-812 of the Courts Article** or [§ 5-313] **§ 5-323 of this title**, reasonable efforts shall
12 be made to preserve and reunify families:

13 (i) prior to the placement of a child in an out-of-home placement,
14 to prevent or eliminate the need for removing the child from the child's home; and

15 (ii) to make it possible for a child to safely return to the child's
16 home.

17 (e) (1) In developing a permanency plan for a child in an out-of-home
18 placement, the local department [of social services] shall give primary consideration
19 to the best interests of the child. The local department shall consider the following
20 factors in determining the permanency plan that is in the best interests of the child:

21 (i) the child's ability to be safe and healthy in the home of the
22 child's parent;

23 (ii) the child's attachment and emotional ties to the child's natural
24 parents and siblings;

25 (iii) the child's emotional attachment to the child's current caregiver
26 and the caregiver's family;

27 (iv) the length of time the child has resided with the current
28 caregiver;

29 (v) the potential emotional, developmental, and educational harm
30 to the child if moved from the child's current placement; and

31 (vi) the potential harm to the child by remaining in State custody
32 for an excessive period of time.

(2) To the extent consistent with the best interests of the child in an out-of-home placement, the local department shall consider the following permanency plans, in descending order:

- (i) returning the child to the child's parent or guardian, unless the LOCAL department is the guardian;
- (ii) placing the child with relatives to whom adoption, CUSTODY AND guardianship, or care and custody, in descending order of priority, are planned to be granted;
- (iii) adoption in the following descending order of priority:
 - 1. by a current foster parent with whom the child has resided continually for at least the 12 months prior to developing the permanency plan or for a sufficient length of time to have established positive family ties; or
 - 2. by another approved adoptive family;
- (iv) placing the child in a court approved permanent foster home with a specified caregiver;
- (v) an independent living arrangement; or
- (vi) long-term foster care.

33 5-525.1.

34 (b) (1) Except as provided in **paragraph (3) of this subsection**, a local
35 department to which a child is committed under **§ 5-525 of this subtitle** shall file a

1 petition for termination of parental rights or join a termination of parental rights
2 action that has been filed if:

3 (iii) a court finds that the [natural] parent has been convicted, **IN ANY STATE OR ANY COURT OF**
THE UNITED STATES, OF:

4 1. [in this State of] a crime of violence[, as defined in §
5 14-101 of the Criminal Law Article,] against **A MINOR OFFSPRING OF THE PARENT**, the child, [the other natural] **OR**
ANOTHER parent of
6 the child[, another child of the natural parent, or any person who resides in the
7 household of the natural parent]; OR

8 2. [in any state or in any court of the United States of a
9 crime that would be a crime of violence, as defined in § 14-101 of the Criminal Law
10 Article, if committed in this State against the child, the other natural parent of the
11 child, another child of the natural parent, or any person who resides in the household
12 of the natural parent;

13 3. of] aiding or abetting, conspiring, or soliciting to commit a
14 crime described in item 1[or item 2] of this item.

15 5-526.

16 (a) (1) The STATE Department shall provide for the care, diagnosis,
17 training, education, and rehabilitation of children by placing them in group homes
18 and institutions that are operated by for-profit or nonprofit charitable corporations.

19 (b) (1) The STATE Department shall reimburse these corporations for the
20 cost of these services at appropriate monthly rates that the STATE Department
21 determines, as provided in the State budget.

22 (2) The reimbursement rate may differ between homes and institutions
23 that provide intermediate services, as defined by the STATE Department, and homes
24 and institutions that provide full services.

25 (c) The STATE Department, or [the Department's] ITS designee, may not
26 place a child in a residential group home or other facility that is not operating in
27 compliance with applicable State licensing laws.

28 5-527.

29 (a) The STATE Department shall adopt [rules and regulations that establish],
30 **BY REGULATION**, eligibility guidelines for payment for foster care for 1 or more
31 classes of children, including children who are in need of special care.

32 (b) (1) For a child who does not need special care, the STATE Department
33 shall pay for foster care in a single family home at a monthly rate that is not less than
34 55% of the monthly rate provided in **subsection (c) of this section** for a child who
35 requires the most demanding special care in a single family home.

1 (c) The STATE Department shall pay for foster care for a child who needs the
2 most demanding special care in a single family home at a monthly rate that is not less
3 than the higher of:

4 (1) the rate that the STATE Department paid in fiscal year 1975; and

5 (2) the rate that the Department of Juvenile Services pays for the
6 current fiscal year.

7 5-528.

8 If the costs are not reimbursable under the Maryland Medical Assistance
9 Program, the STATE Department shall reimburse a foster care provider for payment
10 of the following medical costs for a child under foster care:

11 (1) prescription drugs;

12 (2) nonprescription drugs that are recommended by a physician;

13 (3) replacement of eyeglasses; and

14 (4) any other service that was covered by regulations under the
15 Maryland Medical Assistance Program on December 31, 1975.

16 5-530.

17 (a) The STATE Department may contribute to the support of a child formerly
18 under foster care after the child is adopted.

19 5-550.

20 (a) The STATE Department shall implement a system of registration for family
21 day care homes.

22 5-551.

23 (a) The STATE Department shall adopt [rules and] regulations that relate to
24 the registration of family day care homes.

25 (b) So far as practicable, the [rules and] regulations shall be uniform with the
26 {rules and} regulations adopted by other State agencies as those {rules and}
27 regulations relate to other types of day care.

28 (c) At a minimum, the [rules and] regulations **OF THE STATE DEPARTMENT** shall provide for:

29 (1) minimum standards of environmental health and safety, including
30 provisions for:

31 (i) adequate and safe physical surroundings;

32 (ii) the physical and mental health of day care providers; and

- 1 (iii) investigation of any criminal record of a day care provider;
- 2 (2) a thorough evaluation of each prospective family day care home and
3 day care provider, to be completed before the STATE Department accepts an initial
4 registration;
- 5 (3) ~~self-certification by each registered day care provider once every 2~~
6 ~~years that all requirements for a family day care home are being met~~ **an initial family day care registration that expires 2 years**
after its effective date;
- 7 (4) **a continuing family day care registration that:**
- (i) upon application by the day care provider that meets the requirements set by the STATE
Department, is issued to the provider before the end of the initial registration period; and
- (ii) once issued, remains in effect until surrendered, suspended, revoked, or replaced by conditional
registration;
- (5) reporting of any changed circumstances that relate to the
8 requirements, by the day care provider, at the time the change occurs;
- 9 ~~(5) (6)~~ **(6)** an orientation to be provided to prospective day care providers by the
10 ~~local department~~ **STATE Department** before initial registration;
- 11 ~~(6) (7)~~ **(7)** **announced** inspection by the STATE Department of each registered family day
12 care home prior to issuance of an initial registration and at least once every 2 years
13 thereafter ~~prior to issuance of a renewed registration~~ to determine whether ~~the applicable~~ **the applicable**
14 requirements, **including [record-keeping] RECORD KEEPING requirements**, are being met;
- 15 ~~(7) (8)~~ **(8)** unannounced inspection by the STATE Department of each registered
16 family day care home ~~in any year that an initial or renewal inspection has not taken~~
17 ~~place at least once during each 12-month period~~ **that an initial or continuing registration is in effect to determine whether safe and**
appropriate child care is being provided;
- 18 ~~(8) (9)~~ **(9)** procedures to be followed by the STATE Department in response to a
19 complaint about a family day care home;
- 20 ~~(9) (10)~~ **(10)** a requirement that a person who advertises a family day care home
21 or family day care service shall:
- 22 (i) indicate in the advertisement that the family day care home is
23 registered; and
- 24 (ii) display in the advertisement the registration number issued to
25 the family day care home or family day care service by the STATE Department; and
- 26 ~~(10) (11)~~ **(11)** a requirement that each registered day care provider shall hold a
27 current certificate indicating successful completion of approved:
- 28 (i) basic first aid training through the American Red Cross or
29 through a program with equivalent standards; and
- 30 (ii) cardiopulmonary resuscitation (CPR) training through the
31 American Heart Association or through a program with equivalent standards
32 appropriate for the ages of children for whom care is provided in the family day care
33 home.
- 34 5-553.
- 35 (c) If the STATE Department determines that the group size provisions of
36 **subsection (b) of this section** are unsuitable for a particular family day care home, the

1 STATE Department may decrease the number of children permitted to be in care at
2 that family day care home.

5-554.

(b) (2) Subject to paragraph (1) of this subsection, the Secretary of [the Department] HUMAN RESOURCES or the Secretary's designee shall exercise the authority granted to the Administration or the Director of the Administration.

3 5-554.1.

4 (a) The Secretary or other authorized official or employee of the STATE
5 Department [of Human Resources] may apply to a judge of the District Court or a
6 circuit court for an administrative search warrant to enter any unregistered family
7 day care home to conduct any inspection required or authorized by law to determine
8 compliance with the provisions of **this subtitle** relating to family day care homes.

9 (c) A judge of a District Court or circuit court in the jurisdiction in which the
10 unregistered family day care home is located may issue an administrative search
11 warrant on finding that:

12 (1) the STATE Department has reasonably sought and been denied access
13 to an unregistered family day care home for the purpose of making an inspection;

14 (3) the official or employee of the STATE Department is authorized or
15 required by law to make an inspection of the unregistered family day care home for
16 which the warrant is sought; and

17 (4) THE STATE DEPARTMENT HAS SHOWN probable cause for the
18 issuance of the warrant [has been demonstrated by the Department] by specific
19 evidence:

20 (i) of an existing violation of **§ 5-552 of this subtitle**; and

21 (ii) that the health, safety, and welfare of the children in the
22 unregistered family day care home are substantially threatened due to conditions in
23 the family day care home.

24 (e) (1) An administrative search warrant issued under **this section**
25 authorizes the Secretary and other officials or employees of the STATE Department to
26 enter the specified property to perform the inspection and other functions authorized
27 by law to determine compliance with the provisions of **this subtitle** relating to family
28 day care homes.

29 5-555.

30 (a) The STATE Department shall prepare and, as needed, update an
31 informational pamphlet for parents of children in family day care.

32 (c) The STATE Department shall make the pamphlet available to day care
33 providers for distribution to parents.

34 5-559.1.

35 (a) There is a Family Day Care Provider Direct Grant Fund administered by
36 the STATE Department.

1 (b) To administer grants to family day care providers, the STATE Department
2 may contract with State agencies and nonprofit organizations.

3 5-559.2.

4 (a) The Secretary of [the Department] HUMAN RESOURCES may delegate the
5 authority to approve direct grants to any board [which] THAT exists or may be
6 created within the STATE Department.

7 5-559.3.

8 (b) The Direct Grant Fund shall be used to:

9 (1) pay all expenses and disbursements authorized by the STATE
10 Department for administering the Direct Grant Fund; and

11 5-559.4.

12 (a) The STATE Department may make a grant to an applicant only if:

13 (1) the applicant meets the qualifications required by **this subtitle**; and

14 (2) the grant does not exceed \$500.

15 5-559.5.

16 (a) To apply for financial assistance, an applicant shall submit to the STATE
17 Department an application on the form that the STATE Department requires.

18 (b) The application shall include:

19 (4) the funds available to the applicant without financial assistance from
20 the STATE Department;

21 (5) the amount of financial assistance sought from the STATE
22 Department;

23 (8) any other relevant information that the STATE Department requests.

24 5-559.6.

25 (a) Except as otherwise provided in **this subtitle**, the STATE Department may
26 set the terms and conditions for direct grants.

27 (b) On an annual basis, the STATE Department shall establish priorities for
28 the types of child care to be provided by recipients of direct grants.

1 5-559.7.

2 (a) A person may not knowingly make or cause any false statement or report
3 to be made in any application or in any document furnished to the STATE
4 Department.

5 (b) A person may not knowingly make or cause any false statement or report
6 to be made for the purpose of influencing the action of the STATE Department on an
7 application for financial assistance or for the purpose of influencing any action of the
8 STATE Department affecting financial assistance whether or not such assistance may
9 have already been extended.

10 5-559.8.

11 The STATE Department shall [promulgate such rules] ADOPT REGULATIONS as
12 are necessary to carry out the purposes of **this subtitle**.

13 5-561.

14 (c) The following individuals shall obtain a criminal history records check
15 under **this Part VI of this subtitle**:

16 (1) an individual who is seeking to adopt a child through a [local
17 department of social services or licensed] child placement agency;

18 (2) an adult relative with whom a child, committed to a local department
19 [of social services], is placed by the local department [of social services];

20 (3) any adult known by a local department [of social services] to be
21 residing in [a]:

22 (i) A family day care home required to be registered under [Title 5
23 of] this [article] TITLE;

24 (ii) A home of an adult relative of a child with whom the child,
25 committed to a local department [of social services], is placed by the local department
26 [of social services];

27 (iii) A foster care home or child care home required to be approved
28 under [Title 5 of] this [article] TITLE; or

29 (iv) A home of an individual seeking to adopt a child through a
30 [local department of social services or a licensed] child placement agency; and

31 (4) if requested by a local department [of social services]:

32 (i) a parent or guardian of a child who is committed to the local
33 department and is or has been placed in an out-of-home placement within the past
34 year; and

1 (ii) any adult known by the local department to be residing in the
2 home of the parent or guardian.

3 (e) A local department [of social services] may require [a volunteer of that
4 department] ANY OF ITS VOLUNTEERS who works with children to obtain a criminal
5 history records check under **this Part VI of this subtitle.**

6 (i) (2) The local department [of social services] shall reimburse:

7 (i) an adult residing in a foster care home for the costs borne by the
8 individual under **subsection (h) of this section**; and

9 (ii) an individual described in **subsection (c)(4)(ii) of this section** for
10 the costs borne by the individual under **subsection (h) of this section.**

11 5-562.

12 (a) (3) Within 5 days after a LOCAL DEPARTMENT PLACES A child who is
13 committed to [a] THE local department [of social services] placed by the local
14 department of social services] with an adult relative, an individual identified in §
15 **5-561(c) or (e) of this subtitle** shall apply to the Department for a printed statement.

16 5-563.

17 (b) (3) The Department or its designee shall mail an acknowledged receipt of
18 the application with a sworn statement or affirmation from an individual identified
19 in **§ 5-561(c), (d), (e), or (f) of this subtitle** to the appropriate [local department of
20 social services,] CHILD PLACEMENT OR registering agency[, licensed child placement
21 agency,] or facility.

22 5-564.

23 (a) (2) The Department shall adopt regulations requiring:

24 (iii) [local departments of social services and licensed] child
25 placement agencies that place a child as described in **§ 5-561(c) of this subtitle** to
26 verify periodically the continuing participation or presence of individuals identified in
27 **§ 5-561(c) of this subtitle.**

28 (d) (4) Upon completion of the criminal history records check of an
29 individual identified in **§ 5-561(c), (d), (e), or (f) of this subtitle**, the Department shall
30 submit the printed statement to the appropriate [local department of social services,]
31 CHILD PLACEMENT OR registering agency[, or licensed placement agency].

32 5-567.

33 The following GOVERNMENTAL UNITS OR persons [or agencies] shall have the
34 immunity from civil or criminal liability described under **§ 5-619 of the Courts** [and
35 Judicial Proceedings] **Article** in connection with a criminal history records check
36 under **this Part VI of this subtitle:**

- 1 (1) an employer; AND
2 (2) a State or local agency[; and
3 (3)] , INCLUDING a local department [of social services].

4 5-570.

5 (d) "License" means a license issued by the STATE Department [of Human
6 Resources] to operate a child care center.

7 (g) "Letter of compliance" means a letter issued by the STATE Department [of
8 Human Resources] to a religious organization that meets the requirements under §
9 5-573 of this subtitle.

10 5-574.

11 (a) Except as otherwise provided in this Part VII of this subtitle, a person
12 shall be licensed by the STATE Department before the person may operate a child care
13 center in this State.

14 (b) This section does not apply to:

15 (3) a nonpublic nursery school operated by a tax exempt religious
16 organization that:

17 (ii) has been issued a letter of compliance by the STATE Department
18 [of Human Resources]; or

19 5-575.

20 (a) An applicant for a license shall submit an application to the STATE
21 Department on the form that the Secretary requires.

22 (b) An application for a license shall contain:

23 (4) any other information that the STATE Department requires.

24 5-576.

25 The STATE Department shall issue a license to any applicant who meets the
26 requirements of this Part VII of this subtitle and of the [rules and] regulations
27 adopted under it.

28 5-577.

29 (b) Unless the STATE Department first approves the change, a licensee may
30 not make any substantial addition to or other change in a building or plant of the
31 child care center or a change in its facilities that could affect materially any condition
32 under which the license was issued.

5-578.

(b) Prior to expiration of an initial license or letter of compliance, and on application by the licensee or letter of compliance holder that meets the requirements set by the STATE Department, a continuing license or letter of compliance may be issued that remains in effect until surrendered, suspended, revoked, or replaced by a conditional license or letter of compliance.

(c) The STATE Department shall inspect each child care center operating under a license or a letter of compliance:
(1) on an announced basis prior to issuing the license or letter of compliance and at least every 2 years thereafter to determine whether applicable requirements, including record keeping requirements, are being met; and

(2) on an unannounced basis at least once during each 12-month period that the license or letter of compliance is in effect to determine whether safe and appropriate child care is being provided.

1 5-580.

2 (a) Subject to the hearing requirements of **this section**, the STATE Department
3 may deny a license or letter of compliance to any applicant or deny approval for a
4 change under **§ 5-577 of this subtitle** if the applicant or proposed change does not
5 meet the requirements of **this subtitle**.

6 5-580.1.

7 (a) The Secretary or other authorized official or employee of the STATE
8 Department [of Human Resources] may apply to a judge of the District Court or a
9 circuit court for an administrative search warrant to enter any unlicensed child care
10 center to conduct any inspection required or authorized by law to determine
11 compliance with the provisions of **this subtitle** relating to child care centers.

12 (c) A judge of a District Court or circuit court in the jurisdiction in which the
13 unlicensed child care center is located may issue an administrative search warrant on
14 finding that:

15 (1) the STATE Department has reasonably sought and been denied access
16 to an unlicensed child care center for the purpose of making an inspection;

17 (3) the official or employee of the STATE Department is authorized or
18 required by law to make an inspection of the unlicensed child care center for which
19 the warrant is sought; and

20 (4) THE STATE DEPARTMENT HAS SHOWN probable cause for the
21 issuance of the warrant [has been demonstrated by the Department] by specific
22 evidence:

23 (i) of an existing violation of **§ 5-574(a) or § 5-582 of this subtitle**;
24 and

25 (ii) that the health, safety, and welfare of the children in the child
26 care center are substantially threatened due to conditions in the child care center.

27 (e) (1) An administrative search warrant issued under **this section**
28 authorizes the Secretary and other officials or employees of the STATE Department to
29 enter the specified property to perform the inspection and other functions authorized
30 by law to determine compliance with the provisions of **this subtitle** relating to child
31 care centers.

32 5-582.

33 Except as otherwise provided in **this subtitle**, a person may not operate a child
34 care center in this State unless licensed by the STATE Department.

1 5-584.

2 (a) In addition to any other provision of law relating to child abuse and
3 neglect, a local department [of social services] that receives a report of suspected
4 child abuse under § 5-704 or § 5-705 of this title that concerns a child care center,
5 shall notify the Secretary's designee within 48 hours.

6 (c) The multidisciplinary team shall be chaired by the Secretary's designee
7 and shall include:

8 (1) representatives of the local department [of social services] and law
9 enforcement agency that are investigating the report under § 5-706 of this title;

10 5-587.

11 (a) The STATE Department may establish child care centers for the children of
12 State employees in State-occupied buildings in the manner provided in this section.

13 (b) Before the State acquires or constructs an office building that
14 accommodates 700 or more employees, the STATE Department [of Human Resources]
15 shall:

16 (1) survey the employees who will be assigned to the building regarding
17 the employees' child care needs;

18 (2) determine whether child care services for more than 29 children are
19 needed; and

20 (3) if sufficient need is demonstrated, determine how much space is
21 required and request that the Department of General Services designate the required
22 amount of space within the building or acquire the designated amount of space within
23 a nearby building for a child care center.

24 5-588.

25 (a) The Department of Health and Mental Hygiene and the Department of
26 General Services shall cooperate with and assist the STATE Department in carrying
27 out the purposes of this Part VIII of this subtitle.

28 (b) The STATE Department shall:

29 (1) provide the guidance and means for establishing child care centers
30 for the children of State employees in State-occupied buildings or nearby buildings in
31 accordance with this Part VIII of this subtitle;

32 (2) provide for licensing of child care centers for children of State
33 employees;

34 (3) ensure that space designated within a State-occupied building or
35 nearby buildings for a child care center complies with the prevailing local and State
36 safety building codes for child care centers;

1 (4) apply the regulations adopted under **Part VII** for child care centers;
2 and

3 (5) contract for child care services in the space provided. Contract
4 providers must provide proof of financial responsibility.

5 (c) (2) If any deficiencies under **paragraph (1)(ii) of this subsection** are not
6 corrected within a reasonable time, the Department of General Services shall notify
7 the STATE Department [of Human Resources], which will exact compliance in
8 accordance with the terms of the child care center contract.

9 (f) (1) After a child care center for children of State employees has been
10 established, the STATE Department [of Human Resources] shall assess the child
11 care needs of the State employees using the center at least every 5 years.

12 5-589.

13 (c) The STATE Department shall administer the pilot program established
14 under **this section**.

15 (e) (1) The STATE Department shall contract with child care providers to
16 operate the child care centers established under **this section**.

5-590.

(b) "Child Care Administration" means the Child Care Administration of the STATE Department.

17 5-592.

18 (e) (3) The STATE Department shall provide staff for the Council.

19 5-593.

20 The Council shall:

21 (1) advise and counsel the Child Care Administration;

22 (2) review regulations proposed by State agencies regulating child care
23 [for the purpose of insuring] TO ENSURE coordination and consistency;

24 (3) review issues and problems relating to care of children and suggest
25 priorities for consideration by the Child Care Administration; and

26 (4) identify interdepartmental issues of importance to child care
27 providers and users that should be addressed by the Child Care Administration [of
28 the Department] and other State agencies.

29 5-594.1.

30 (a) There is a Child Care Quality Incentive Grant Program administered by
31 the STATE Department.

32 (b) To administer direct incentive grants to child care providers, the STATE
33 Department may contract with OTHER State agencies and nonprofit organizations.

1 5-594.2.

2 (a) The Secretary of Human Resources may delegate the authority to approve
3 direct incentive grants to any board that exists or may be created in the STATE
4 Department.

5 5-594.3.

6 (b) The Child Care Quality Incentive Grant Program shall be used to:

7 (1) pay all expenses and disbursements authorized by the STATE
8 Department for administering the Child Care Quality Incentive Grant Program; and

9 5-594.4.

10 The STATE Department may award a direct incentive grant to an applicant only
11 if:

12 (1) the applicant meets the qualifications required by **this subtitle**;

13 (2) the direct incentive grant does not exceed \$2,500; and

14 (3) federal funds are available to cover the cost of the grant.

15 5-594.5.

16 (a) To apply for a direct incentive grant, an applicant shall submit to the
17 STATE Department an application on the form that the STATE Department requires.

18 (b) The application shall include:

19 (5) the amount of direct incentive grant funds sought from the STATE
20 Department;

21 (7) any other relevant information that the STATE Department requests.

22 5-594.6.

23 (a) Except as otherwise provided in **this part**, the STATE Department may set
24 the terms and conditions for direct incentive grants.

25 (b) On an annual basis, the STATE Department may establish priorities for the
26 distribution of direct incentive grants based on the categories of children child care
27 providers serve, including infants, toddlers, and preschool and school-age children.

28 5-594.7.

29 (a) A person may not knowingly make or cause any false statement or report
30 to be made in any application or in any document furnished to the STATE Department
31 under **this part**.

1 (b) A person may not knowingly make or cause any false statement or report
2 to be made for the purpose of influencing the action of the STATE Department on an
3 application for a direct incentive grant or for the purpose of influencing any action of
4 the STATE Department affecting a direct incentive grant whether or not such a grant
5 may have already been awarded.

6 5-701.

7 (c) "Administration" means the Social Services Administration of the STATE
8 Department.

9 (d) (1) Except as provided in paragraph (2) of this subsection, "central
10 registry" means any component of the STATE Department's confidential computerized
11 database that contains information regarding child abuse and neglect investigations.

12 (o) ["Local] EXCEPT AS PROVIDED IN §§ 5-705.1 AND 5-714 OF THIS SUBTITLE, "LOCAL
13 department" means the LOCAL department [of social services] that has jurisdiction
14 in the county:

15 (1) where the allegedly abused or neglected child lives; or

16 (2) if different, where the abuse or neglect is alleged to have taken place.

17 (o-1) "Local department case file" means that component of the STATE
18 Department's confidential computerized database that contains information
19 regarding child abuse and neglect investigations to which access is limited to the local
20 department staff responsible for the investigation.

21 5-706.

22 (e) The local department, the appropriate law enforcement agencies, the
23 State's Attorney within each county and Baltimore City, the LOCAL department's
24 office responsible for child care regulation, and the local health officer[,] shall enter
25 into a written agreement that specifies standard operating procedures for the
26 investigation under subsections (b) and (c) of this section and prosecution of reported
27 cases of suspected abuse.

28 5-706.1.

29 (b) (4) (i) If a CINA [proceeding] CASE is pending concerning a child who
30 has been allegedly abused or neglected by the appellant or a child in the care, custody,
31 or household of the appellant, the Office of Administrative Hearings shall stay the
32 hearing until the CINA [proceeding] CASE is concluded.

33 (ii) After the conclusion of the CINA [proceeding] CASE, the Office
34 of Administrative Hearings shall vacate the stay and schedule further proceedings in
35 accordance with this section.

1 5-706.3.

2 (a) [The Department of Human Resources, in] IN cooperation with the
3 Department of Health and Mental Hygiene, THE STATE DEPARTMENT shall develop
4 intervention systems in at least four counties designated by the Secretary of Human
5 Resources that:

6 (1) include drug treatment for a mother of a child who is born drug
7 exposed and supportive services for the family of the child; and

8 (2) serve 300 families.

9 5-710.

10 (c) If a report has been made to the State's Attorney's office under § 5-706(i) of
11 this subtitle and the [State's Attorney's] office is not satisfied with the
12 recommendation of the local department, the [State's Attorney's] office may petition
13 [the] A JUVENILE court, at the time of the report by the representative, to remove the
14 child, if the State's Attorney concludes that the child is in serious physical danger and
15 that an emergency exists.

16 5-712.

17 (b) Any physician who is licensed or authorized to practice medicine in this
18 State shall examine or treat any child, with or without the consent of the child's
19 parent, guardian, or custodian, to determine the nature and extent of any abuse or
20 neglect to the child if the child is brought to the physician:

21 (1) in accordance with a JUVENILE court order;

22 5-713.

23 (a) If a child is removed from a household under this subtitle or by a
24 JUVENILE court order, on return of the child to the household by the local department
25 or by the action or order of any court, State's Attorney's office, or other law
26 enforcement agency, the local department shall establish proper supervision and
27 monitoring of the household on a regularly scheduled basis of at least once a month
28 for at least 3 months.

29 5-714.

30 (b) (1) [The respective] EACH local [departments throughout this State]
31 DEPARTMENT shall provide the information for a central registry.

32 (c) The information in a central registry shall be at the disposal of:

33 (1) the protective services staff of the [Social Services] Administration;

34 (e) (1) The STATE Department or a local department may identify an
35 individual as responsible for abuse or neglect in a central registry only if the
36 individual:

1 (i) has been found guilty of any criminal charge arising out of the
2 alleged abuse or neglect; or

3 (ii) has been found responsible for indicated abuse or neglect and
4 has:

5 1. unsuccessfully appealed the finding in accordance with
6 the procedures established under § 5-706.1 of this subtitle; or

7 2. failed to exercise the individual's appeal rights within the
8 time frames specified in § 5-706.1 of this subtitle, Title 10, Subtitle 2 of the State
9 Government Article, or the Maryland Rules.

10 (2) [The Department without] WITHOUT the necessity of a request, THE
11 STATE DEPARTMENT shall remove from the name of an individual described in
12 paragraph (1) of this subsection the identification of that individual as responsible for
13 abuse or neglect if no entry has been made for that individual for 7 years after the
14 entry of the individual's name in a registry.

15 (f) (2) An official or employee of the STATE Department or a local
16 department who releases information from a central registry in violation of
17 paragraph (1) of this subsection is subject to the penalty provided in Article 88A, §
18 6(e) of the Code.

19 5-1001.

20 (b) "Administration" means the Child Support Enforcement Administration of
21 the STATE Department.

22 5-1102.

23 (a) All proposals for funding received under this subtitle designed to address
24 the prevention of child physical or sexual abuse shall be reviewed by a selection
25 committee composed of the following members:

26 (1) 2 persons designated by the Secretary of [the Department of]
27 Human Resources, of which 1 person shall have prior experience in local community
28 child abuse prevention programs;

29 (c) The STATE Department [of Human Resources] shall administer the child
30 abuse prevention grant program created under this subtitle and shall compile
31 appropriate information regarding the awarding and use of grants received under this
32 section.

33 5-1202.

34 (a) On or before December 1, 2000, the Secretary of Human Resources and the
35 Secretary of Health and Mental Hygiene shall, after consultation with a broad range
36 of child welfare professionals, substance abuse experts, judges, attorneys, managed
37 care organizations, health care providers, local departments, local health

1 departments, and child advocates, develop a statewide protocol for integrating child
2 welfare and substance abuse treatment services that includes at a minimum the
3 following:

4 (4) placing qualified addictions specialists in all child welfare offices,
5 based on a caseload formula developed by the STATE Department;

6 (6) specifying the circumstances under which a local department shall
7 include in its petition for a child in need of assistance [under Title 3, Subtitle 8 of the
8 Courts Article] a request that [the] A JUVENILE court order comprehensive drug and
9 alcohol assessment and testing;

10 5-1203.

11 At an adjudicatory hearing on a petition for a child in need of assistance [under
12 Title 3, Subtitle 8 of the Courts Article], if a local department requests substance
13 abuse assessment and testing for a parent, [the] A JUVENILE court shall order the
14 assessment and testing unless the JUVENILE court finds compelling reasons not to
15 order the assessment and testing and provides the reasons in writing.

16 6-103.

17 (a) [In each local department of social services, the Secretary of Human
18 Resources, with] WITH the advice of the Secretary of Health and Mental Hygiene,
19 THE SECRETARY OF HUMAN RESOURCES shall establish IN EACH LOCAL
20 DEPARTMENT a single parent services program to carry out the policies set forth in §
21 6-102 of this subtitle.

22 9-402.

23 (b) Upon conclusion by the law enforcement agency that any one of the
24 conditions specified in subsection (a) of this section exists, the law enforcement
25 agency shall immediately:

26 (4) notify the appropriate local department [of social services] and, to
27 the extent possible, obtain any information that may assist in the locating of the
28 missing child; and

29 10-114.

30 (a) The Secretary of Human Resources shall:

31 (3) delegate any responsibility for support enforcement to a local
32 department [of social services], for as long as:

33 (i) the local government asks that responsibility be delegated to
34 the local department;

35 (ii) the Secretary finds that the local department is capable of
36 carrying out the responsibility; and

1 (iii) a delegation of that responsibility is consistent with guidelines
2 of the Department of Human Resources;

3 14-101.

4 (j) ["Local] EXCEPT AS PROVIDED IN §§ 14-201, 14-402, AND 14-403 OF THIS TITLE, "LOCAL
5 department" means the LOCAL department [of social services] that has jurisdiction
6 in the county:

7 (1) where the vulnerable adult lives; or

8 (2) where the abuse is alleged to have taken place.

9 Article - Real Property

10 2-123. ADOPTEES.

11 (A) "INSTRUMENT" DEFINED.

12 IN THIS SECTION, "INSTRUMENT" MEANS A DEED, GRANT, OR OTHER WRITTEN
13 INSTRUMENT OTHER THAN A WILL AS DEFINED IN § 4-414 OF THE ESTATES AND
14 TRUSTS ARTICLE.

15 (B) CONSTRUCTION OF SECTION.

16 THIS SECTION DOES NOT LIMIT THE RIGHT OF AN INDIVIDUAL TO PROVIDE FOR
17 DISTRIBUTION OF PROPERTY BY WILL.

18 (C) CONSTRUCTION OF INSTRUMENT.

19 (1) UNLESS AN INSTRUMENT EXECUTED ON OR AFTER JUNE 1, 1947,
20 CLEARLY INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
21 EQUIVALENT TERM IN THE INSTRUMENT INCLUDES AN ADOPTEE WHETHER THE
22 INSTRUMENT WAS EXECUTED BEFORE OR AFTER A COURT ENTERED AN ORDER FOR
23 ADOPTION.

24 (2) UNLESS AN INSTRUMENT EXECUTED ON OR BEFORE MAY 31, 1947,
25 CLEARLY INDICATES OTHERWISE, "CHILD", "DESCENDANT", "HEIR", "ISSUE", OR ANY
26 EQUIVALENT TERM IN THE INSTRUMENT INCLUDES AN ADOPTEE IF, ON OR AFTER
27 JUNE 1, 1947, A COURT ENTERED AN INTERLOCUTORY ORDER FOR ADOPTION OR, IF
28 NONE, AN ~~FINAL~~ ORDER FOR ADOPTION.

29 COMMITTEE NOTE: This section is derived without substantive change from
30 former FL § 5-308(a) and (d), except as it related to wills.

31 The word "order" is substituted for the former, more archaic "decree".

32 As to wills, *see* new ET § 4-414.

33 SECTION 4. AND BE IT FURTHER ENACTED, That, *except as expressly provided, this Act does not apply to any case*
pending on October 1, 2005, which case shall be governed by the law applicable as if this Act had not become effective.

SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the
34 Annotated Code of Maryland, in consultation with and subject to the approval of the

1 Department of Legislative Services, shall correct, with no further action required by
2 the General Assembly, cross-references and terminology rendered incorrect by this
3 Act or by any other Act of the General Assembly of ~~2004~~ 2005 that affects provisions
4 enacted by this Act. The publisher shall adequately describe any such correction in an
5 editor's note following the section affected.

6 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That the catchlines, captions,
7 and Committee Notes contained in this Act are not law and may not be considered to
8 have been enacted as a part of this Act.

9 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect October 1, ~~2004~~ 2005.